

Report of the Special Lands Commission

CUSTOMARY LAND TENURE
in the
BRITISH SOLOMON ISLANDS
PROTECTORATE

by
COLIN H. ALLAN

Honiara: Western Pacific High Commission

1957

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BRITISH SOLOMON ISLANDS PROTECTORATE

by

Colin H. Allan
Administrative Officer

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the High Commissioner for the Western Pacific

1957

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HONIARA,

British Solomon Islands
Protectorate.

17th June, 1957.

Sir,

With reference to your letter No. 209
PF370 of 10th July 1953, I have the honour to forward
my report and recommendations on Customary Land
Tenure in the British Solomon Islands Protectorate.

I have the honour to be,

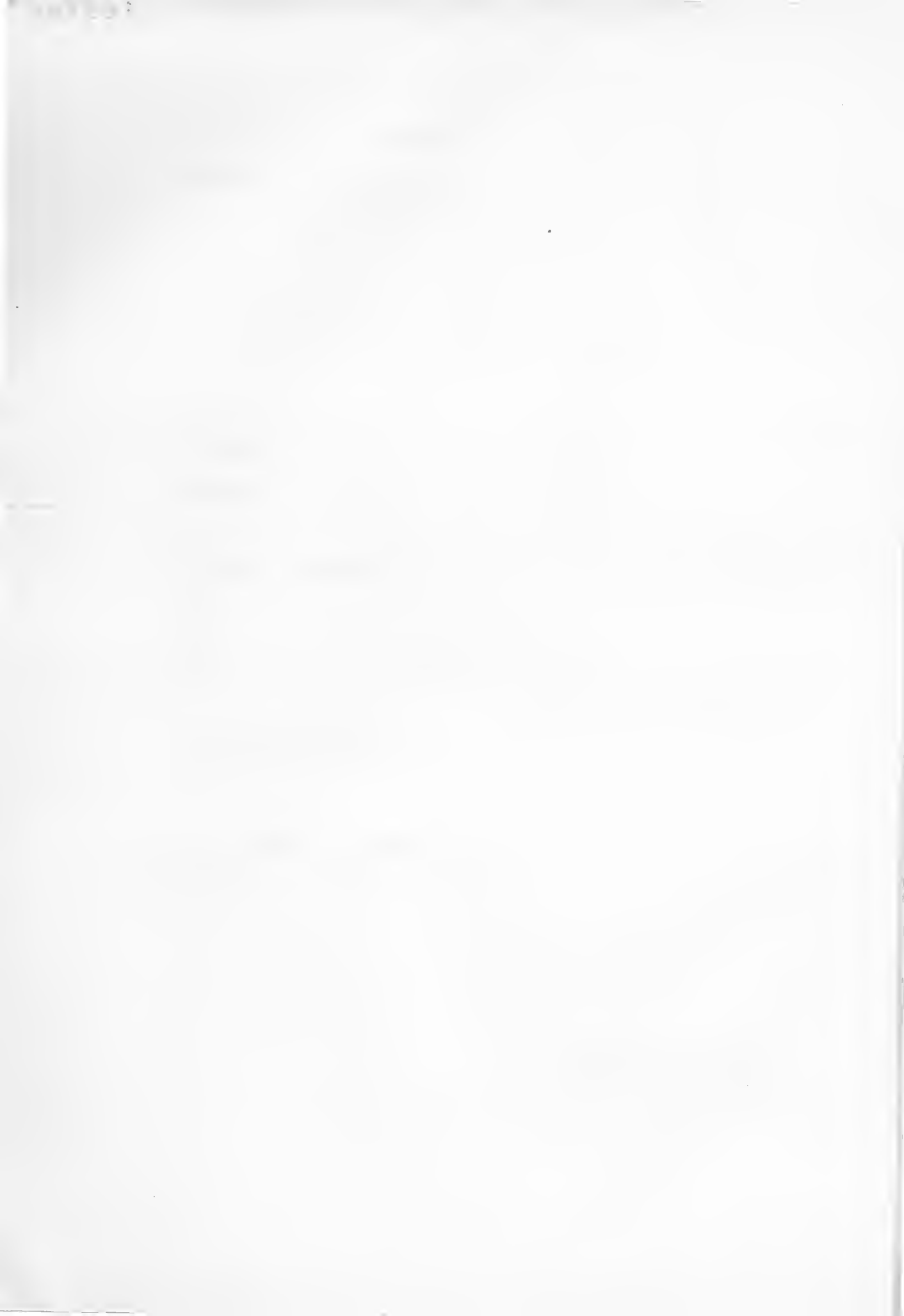
Sir,

Your obedient servant,

Col. H. Allen

Special Lands Commissioner.

The Chief Secretary,
Western Pacific High Commission,
HONIARA



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INTRODUCTION

TERMS OF REFERENCE

The terms of reference of the Special Lands Commission are set out in Memorandum No. C.D.W. (D) 2179 issued by the Colonial Office on 26th November 1951. They are as follows:-

- (a) To study, record and as far as possible correlate, native custom relating to land.
- (b) In the light of the knowledge thus gained and of the apparent needs of the future to recommend in what way the use and ownership of native land and land to which no validated claim is found to exist, can best be controlled: and to draft the necessary legislation to govern this.

The memorandum, previously referred to, stated in the preamble:-

"The existing land legislation of the British Solomon Islands Protectorate is obsolete and the necessity for its amendment has been obvious for some time. The Solomons Land Regulation of 1914 provides for the alienation of native land in the form of leaseholds and assumes that all land not actually alienated is owned by natives of the Protectorate by virtue of their customary rights. While this is substantially true, there are varying degrees of ownership; considerable tracts of country exist whose true owners have probably died out, and which are not used by any native populations but which would be immediately claimed if a move were made to develop them. Furthermore, although the present general principle is that matters relating to native land should, so far as is possible, be governed by native custom, much of the ancient law relating to land, its ownership, tenure and inheritance, has inevitably been lost in recent years or is conveniently forgotten when the possibility of development increases land values. In brief the present law relating to Native land is out of date and inadequate and furnishes no guide to the settlement of important questions of the ownership, tenure and inheritance of native lands no record of native land titles exists, and no policy with regard to the future control of native land has yet been formulated."

2. The terms of reference were based upon proposals made by the Acting Resident Commissioner, British Solomon Islands Protectorate, in January 1946, in connection with the Protectorate Ten Year Development Plan. It was intended that the Commission's enquiries should be a preliminary to agricultural, forestry and mining development.

3. Eleven years have elapsed since the original proposals were made. During this time many changes have occurred in all fields of Government policy. In the circumstances, it has seemed prudent to apply the widest interpretation to the terms of reference, and to examine the whole system of customary land tenure and its course of evolution, against the general background of pre-war, post-war and future development. Owing to the complex nature of the subject, and the variety of issues involved, but more especially to the general lack of attention that has been given to it in the past, much difficulty has been encountered in producing a report which follows a logical order. For this reason, some repetition has occurred and cross referencing has proved necessary; however, every effort has been made to keep this to a minimum.

4. The terms of reference provided for legislation to be drafted to govern future policy. In 1951, when the Memorandum was prepared, the Western Pacific High Commission and the British Solomon Islands Protectorate Government employed only one full time Law Officer and it was normal procedure for departmental officers to draft their own legislation. Circumstances have now changed; the Commission is unqualified to draft legislation, and with the approval of the Chief Secretary, it has confined its attention to recommending the lines for future policy.

ITINERARY OF WORK

5. The formal work of the Commission was begun on 26th May 1953. Prior to that date, and while on leave in New Zealand, the opportunity was taken to assemble background material and to consult leading authorities on land tenure in that country.

6. After gathering equipment and obtaining a Solomon Island clerk, the Commission left Honiara on 22nd June for the Western Solomons, where field work was conducted in Choiseul, the Shortlands, Vella Lavella, Roviana and Marovo. A return was made to Honiara on 27th September. With the exception of a fortnight at Gizo for the removal of a troublesome appendix, the whole of the time, apart from travelling, was spent in Western villages. The period 10th November to 4th December was devoted to Ysabel, while from 5th January to 29th January 1954 the Commission visited Florida and Savo. From the 3rd to 11th February and 22nd February to 1st March, enquiries were carried out in northern and north western Guadalcanar. From the 13th March to 2nd April, 1954, the Commission visited south western and southern Guadalcanar and the Russell Islands. Apart from this latter tour and a few days in Ysabel the Commission lived in various villages. The periods spent in Honiara were devoted to the compilation of notes, research of the archives, interviews and discussions with Solomon Islanders, the preparation of quarterly progress reports and general office work. The period 5th April to 14th May 1954 was devoted to a Committee appointed by His Excellency the High Commissioner to investigate the leasing and renting of Crown and Native Lands. The Committee presented its report on 31st May 1954.

7. On 15th May 1954, a shortage of administrative staff in the Secretariat necessitated the indefinite suspension of the Commission. Work was not resumed until 17th July 1956, following a period of leave in the United Kingdom. During this visit, the opportunity was taken at the Colonial Office to consult the Land Tenure Specialist, whose advice and suggestions have proved invaluable. Libraries and other authorities in the United Kingdom were also consulted.

8. The delay which had occurred, amounting to two years and two months, together with the increasing need for the promulgation of the Commission's findings, necessitated the speeding up of final enquiries. Accordingly the remaining tours were based on ships. The period 24th July to 12th August 1956 was spent in San Cristobal, Ugi and Santa Ana. From 26th September to 18th October 1956, the Commission visited the Santa Cruz group, including Tikopia and other outlying islands. Finally, all sub-districts in Malaita were visited between 26th November and 14th December. The periods in Honiara were spent as before, except that it was possible to apply a proportion of the time on the final report. Apart from 35 days in January, March and April of this year on Secretariat duties, the remainder of the time has been occupied in drafting this report.

9. Thus, 245 days have been spent on tour, 177 days in Honiara compiling field notes, research, etc., 75 days on extra Commission duties and 175 days in preparing the report. The actual time occupied by the whole enquiry has therefore been one year and eight months.

APPROACH TO THE ENQUIRY

10. The facts have been collected by examining the following:-

- (a) The social organisation of each community visited.
- (b) The history of actual land plots related to genealogies.
- (c) The answers to an ordered question pattern put to a cross section in each community.
- (d) Court records of disputes and where not available, the accounts of those concerned in them.
- (e) Central archives, High Commission files, departmental reports, district records, minutes of proceedings of the first Lands Commission, together with published and unpublished papers directly and indirectly concerned with the problem.
- (f) Information supplied by Government officers, missionaries, planters and private individuals, many of whom had special knowledge and experience in consequence of lengthy association with the Protectorate.
- (g) Information supplied by individual Solomon Islanders.

(h) Published and unpublished general works on the Protectorate.

11. The language used was mainly pidgin English. This was supplemented in each place by the use of certain dialect words obtained before hand. In all places, an additional check was possible by the use of reliable, educated Solomon Island interpreters, who combined a good working knowledge of English with fluency in pidgin English and experience in the local dialect. The shortcomings of pidgin English are recognised, but the criticism of total inadequacy cannot be accepted for this type of enquiry. Solomon Islanders speaking simple English, attempted to use English tenurial terms, of which they had little understanding, but in whose potency they placed a blind faith. Others constantly attempted to interpret the changing customary system in European terms. Such statements were treated with respect, but with reservation. With the dozens of dialects spoken, pidgin English was the only satisfactory medium.

12. The gathering of information from Solomon Islanders has been approached partly according to conventional method and partly by methods developed by administrative experience in the Protectorate. Discussions were held mainly with small groups and individuals. In many cases, however, the interest created resulted in large gatherings, which made enquiry more difficult. The results may displease both anthropologists and administrators for opposite reasons. Time, the nature of the problem, and the necessity for producing a reasoned and practical policy excluded an alternative approach. Such reconstruction of custom as proved necessary has been carried out by examination of actual land histories as related by the most reliable elderly persons available. Every effort has been made in presenting the facts to evaluate with a critical eye. Theory has been avoided.

13. Not every community in the Protectorate has been visited. Not every one visited has been the subject of intensive study. All that has been possible is a broad survey. At the beginning, it was thought that the diversity of culture and tradition would make a unified approach impossible. However, as the enquiry proceeded, a general pattern emerged; it is this pattern which is presented. Variations may be found in many places, especially in those which have not been visited, such as Simbo, Rennell, Lord Howe and Sikaiana. But these will be differences of emphasis rather than principle.

14. The facts have been collected and presented against the changing social, political and economic background of the Protectorate. Land tenure is a boring subject, and some of the studies produced do nothing to belie the fact. Principally, this is because the subject matter is unrelated to current changes. Every effort has been made to avoid this danger, and while the result may still be boring, on balance it is felt better to provide an integrated picture, rather than one that hangs in vacuum.

15. Finally, it will be noticed that there are serious gaps in statistics. This reflects the general position in which the Protectorate finds itself at present. Those presented are far from satisfactory and have been obtained at a disproportionate cost in time. Better statistics would have necessitated the attachment of a second European officer to

the Commission for a lengthy period. Having regard to general recruiting difficulties which the Protectorate Government constantly encounters, it was considered inexpedient to delay the work for this purpose.

ATTITUDE OF INFORMANTS

16. One of the main reasons for delay in the commencement of the Commission was the unsatisfactory political climate which existed between the middle of 1946 and 1951. Although the position has now improved, enquiries have had to be carried out with careful regard to political conditions. This has necessitated a dexterous approach to avoid causing political offence; on the one hand such offence might have prejudiced future policy, and on the other, embarrassed District Commissioners who invariably have to bear the heat and burden of the day after the many commissions, surveys and the such like, with which this age is bedevilled, have passed on their way.

17. There can be few older Solomon Islanders who have not heard of the first Lands Commission which enquired into specific land claims in the early 'twenties'. It was therefore not surprising, despite careful preparatory work, that a great many people were under the impression that this Commission was concerned with the settlement of claims and disputes. This was something of a handicap, since obviously the examination of the nature and incidence of disputes was an important part of the enquiry. A great number of informants were encountered who tried to use the Commission to further personal land ambitions; every effort has been made to prevent this.

18. The most marked attitude was one of general suspicion. Nor was this surprising, since apart from the settlement of disputes, Government had previously concerned itself only in the alienation of land. The suspicion concentrated in a belief that Government was determined to relieve the people of their lands. In recently disturbed areas, the work was associated with the feared "colony". In most places, however, suspicion soon lifted and Government's interest in the customary tenure system was welcomed. In Ysabel, particularly Kia, a desire was expressed that Government should assist the people in resolving some of their land tenure difficulties. All parts of all islands were not so forthcoming and many people remained wary to the end.

19. Only at Marau Sound, Guadalcanar, was total opposition encountered, and it is as well to record what happened. At the time the enquiries were made, Marau Sound was split politically - some wished to associate with the Malaita Council, while others favoured the Guadalcanar Council. The former had been strongly associated with the Marching Rule movement led by Naomane. Enquiries began at Haotaki village in a strained atmosphere which was not assisted by the presence of a large number of men from Ariari and Small Malaita. Naomane had ordered the exclusion of all the Guadalcanar Council supporters. Proceedings opened with a prayer by the Roman Catholic teacher. A request for certain dialect words relating to land, resulted in a long discussion

on whether or not these could be supplied, without the permission of the Malaita Council. The teacher then read out "the custom". This was a prepared political statement on land and genealogy and had little bearing on what was actually required. Following one or two questions, an argument developed in dialect. This was because certain elements of Naomane's supporters felt that their land interests were under challenge. Eventually Naomane disallowed further discussion or enquiry. The facts of the system at Marau were later gathered from the Guadalcanar adherents, who insisted on relating what they believed to be the truth.

20. This was the only instance of open opposition, but the fact that it did occur, while in other places there was a modicum of reserve, must qualify the results of the Commission's work. While on the one hand it could be argued that an officer with no local knowledge, and almost certainly one less associated in the past with political discontents, might have obtained a better insight into the overall problem, it could also be argued that such an officer might have missed the essential climate of present attitudes towards land. It is as well, however, that the attitude of informants should be taken into account in considering the report.

TERMINOLOGY

21. Land tenure systems generally, and customary systems in particular, are often complicated and obscured by terminology. This results partly from the use of English tenurial words and phrases, ill suited to the circumstances, and partly from the terminology of anthropology, concerning which one finds little professional agreement. Some of the former have necessarily been used, but care has been taken to try to clarify what is meant. The use of the vexed word "ownership" has been avoided as far as possible, though in one section a description has been given of what Solomon Islanders (who use it frequently) understand by the word. In places it has also been necessary to use the word "title", but the general qualification is made that as yet, no land titles have been issued by the Protectorate Government.

22. As regards anthropological terminology the task of avoiding obscurity has been more difficult. This is due to the diversity of societies in the Protectorate, and the differences in terminology applied by the various field workers who have examined some of the local societies. Every possible effort has been made to clarify, simplify and apply terminology that is in current administrative use, and generally to keep it within the bounds of a local administrator's practical experience of the social system.

23. One other point might be mentioned. Traditional usage adopts the word "natives" in referring to the indigenous inhabitants. In recent years, however, Europeans and the people themselves have been using "Melanesians" or "Solomon Islanders".¹ The former word is

1. Sir Christopher Cox of the Colonial Office, has used the word "Solomonians". There is much to commend the word and the time seems ripe for an official choice to be made and applied generally.

PART ONE

GENERAL BACKGROUND



CHAPTER I

GEOGRAPHICAL

The British Solomon Islands Protectorate is administered by the High Commissioner for the Western Pacific High Commission whose Headquarters and staff are stationed at Honiara, the capital of the Protectorate, situated on the northern coast of Guadalcanar.

Location

2. The Protectorate consists of a segment of the arc of Melanesian islands lying to the north and north west of Australia, between latitudes $5^{\circ}10'$ south and $12^{\circ}45'$ south, and longitudes $155^{\circ}30'$ and $170^{\circ}30'$ east. It stretches from an imaginary line dividing the atolls of Nukumanu and Lord Howe (Ongtong Java) and the Straits south of the Northern Solomons group of Bougainville (Australian Trust Territory of New Guinea), some 1,000 miles south east to the islands of Tikopia and Anuda which lie about 80 miles from the Banks group, the northern-most islands of the New Hebrides Condominium. The Protectorate capital is some 1,900 miles from Auckland, 1,235 miles from Suva, 1,610 miles from Sydney and 830 miles from Port Moresby.

3. This island chain of ten main groups has a land area of approximately 11,300 square miles scattered over about 300,000 square miles of sea. In the Bougainville Straits are the Shortlands, consisting of Mono, Alu and Fauro. Due west lies Choiseul separated from Ysabel by the islands of the Manning Straits. To the south the New Georgia group consists of Vella Lavella, Kolombangara, Simbo, Gannonga, the Wana Wana and Roviana lagoons, Rendova and the Marovo lagoon islands, the most important of which are Gatukai and Vangunu. The Russells group is south of Ysabel, while the Florida group, consisting of Sandfly, Big Nggela and Small Nggela, lie between Malaita and Guadalcanar. Savo island is situated between Florida and the Russells. San Cristobal is south east of Guadalcanar with Santa Ana and Santa Catalina at the southern tip. Ulawa lies west of Small Malaita. The Santa Cruz group, including Ndeni, the Reef Islands, the Duffs, Utupua, Vanikoro, Tikopia and Anuda lie far to the east of San Cristobal.

Topography and Relief

4. The six largest land masses in the Protectorate are Choiseul, New Georgia, Ysabel, Malaita, Guadalcanar and San Cristobal. These range in size from Choiseul with 1,140 square miles to Guadalcanar with 2,000 square miles. Other islands vary from a few square yards of lagoon islands to 250 square miles of Vella Lavella.

5. Circumstances of climate, geology and vegetation enable all land to be divided into five main categories as follows:-

- (a) the flat narrow coastal belt, with which can be linked the flat coral lagoon islands and atolls covered with light vegetation. This comprises coconut trees, secondary growth, forest in transition, and on the larger land masses, small scattered stands of primary forest;
- (b) fresh and saltwater swamp lands covered with mangrove, swamp forests, and ivory nut trees;
- (c) dry coastal plains and rolling foot hills covered with kunai grass, scrub, fern and scattered forest clumps as found in the northern areas of Guadalcanar, the Florida group, Vanikoro and Saint George island in south eastern Ysabel;
- (d) foot-hills and mountain ranges below 3,000 feet covered with dense primary rain forest, in which are scattered areas of secondary growth on the less steep hillsides, in the narrow valley floors and on the few small plateaux;
- (e) precipitous mountains and ranges above 3,000 feet covered with mid-mountain forest and, in the case of the higher mountains of Guadalcanar (4,000 - 8,000 feet), moss forest, which is however not as dense as that found in New Guinea.

6. It is estimated that more than 90 per cent of the land in the Protectorate is in categories (d) and (e), i.e. foot-hills and mountain ranges, and indeed the whole aspect of these islands from the air is one of fold upon fold of hills and ranges covered with dense forest.

7. Almost all islands and groups are surrounded by coral reefs, which in New Georgia and Malaita form navigable lagoons of considerable extent, dotted with islands of varying sizes. With the exception of the northern coast of San Cristobal, Choiseul, both coasts of Guadalcanar and the coasts of small islands such as Ugi and Savo, the Protectorate is well served by harbours and anchorages. Their disposition has been an important factor in the establishment of settlements within three or four hours sailing distance of each other by small ships and canoes.

8. The main island groups are netted with a vast number of river systems which in the case of those on the north coast of Guadalcanar and Malaita are of considerable size and extent. These rivers, particularly those flowing to the north, are subject to sudden and heavy flooding. Mr. J.C. Grover, Senior Geologist, has stated in respect of the Sorvohio river on Guadalcanar.

"During the first six months of 1952 Mr. Wells recorded rises in excess of 4 ft. on 32 occasions, rises of 12 to 15 ft. on four occasions, and of 17 ft. on one occasion."

1. J.C. Grover, "Interim Geological Survey of the B.S.I.P." Memoir No. 1, Published By Command of the High Commissioner for the Western Pacific, 1955. p.79.

Rivers are fast flowing and in most cases pass through narrow gorges strewn with rocks. Tidal rivers are navigable for a mile or so by small powered craft, and when not in flood are negotiated for further stretches by canoes. At Vanikoro, rafted logs are towed down certain rivers.

Geology and Soils

9. A geological survey of the Protectorate is at present being undertaken, and Mr. J.C. Grover's first report has been published². This study refers in detail to the history of exploratory and mining ventures in the Protectorate, which lies in a zone of active seismicity, where earthquakes, which cause land slides and damage cultivation, and seismic sea-waves are relatively frequent. The nature of volcanic activity at Vella Lavella, Simbo and Savo is discussed, and reference is made to eruptions off the coast of Vangunu and in the Santa Cruz group, among other places of minor importance. The report describes the geology of the main islands and ends with an analysis of mineral resources so far discovered, indicating that the most hopeful signs were found on Guadalcanar and at Hanasavo in the Sandfly area of Florida. In conclusion, Mr. Grover suggests other mineral possibilities, and says that the palaeontological evidence and structural conditions are such as would favour an accumulation of oil.

10. No systematic soil survey has been carried out, but in connection with the development of a peasant cocoa growing project on Malaita, Dr. H. Greene, Tropical Soils Adviser at the Rothamsted Experimental Station, visited parts of the island in 1951. Dr. Greene's interim report stated that generally areas of land existed, whose soils indicated that cocoa would be a promising crop. The soils of the low-land flats are of "two main types the shallow, black, granular Rendzina formed on coral and the rather deeper poorly-drained Humic Glei, and Low Humic Glei or Weissen boden, suitable only for pasture, rice, sugar cane or sorghum". Dr. Greene pointed out that the tropical red and yellow earths formed on coastal uplands, while often attractive looking and carrying luxurious vegetation, are in fact very fragile. This latter characteristic was noted by F.S. Walker³ in his Report on the Forests of the British Solomon Islands Protectorate. He stated that soils are generally porous, particularly subject to erosion and easily leached. First impressions indicate the soils of the region to be fertile but, while there were appreciable areas of highly fertile land, closer examination reveals the general level of intrinsic fertility to be low.

11. Soil samples from Kolombangara and Ilu, Guadalcanar, have been tested and found unfavourable for cocoa.

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2. "Interim Geological Survey of the B.S.I.P." J.C. Grover, Memoir No. 1, Published By Command of the High Commissioner for the Western Pacific, 1955.
 3. F.S. Walker "The Forests of the British Solomon Islands Protectorate". Crown Agents, London 1948, p.6.

12. At present, Levers Pacific Plantations Pty. Limited are employing an Agronomist, Mr. A.H. Green, whose main work so far has been in the field of fertiliser trials on the Company's coconut estates, which are situated mainly on coastal flats. Conclusive results have not yet been achieved, but the soil analyses which have been carried out in connection with this work indicate that although in any area selected, the palms appear similar, the soils even within an experimental area of 11 acres show considerable variation.

13. In summary, the variation in soils is considerable, and apparent fertility is frequently belied when the vegetation is disturbed. Melanesian agricultural practice pays regard to both these facts. In this connection Dr. Greene noted that on Malaita "the people are not only skilled but artistic cultivators and are more than usually well informed about the soils they use." It has been found that in almost all parts of the Protectorate the local people have their own names for different soils and are obviously knowledgeable regarding fertility.

Climate

14. The Protectorate has two marked climatic seasons governed by prevailing winds; from April to about the end of October the south east blows strongly and, once established, it rarely blows from another direction with any force; from November, gusts of north west winds are experienced, and these become stronger and more persistent until January, when its full force is felt. However, unlike the south east, it does not blow consistently; it frequently veers to the north east and south east. At the same time north west winds which may last a few hours or a few days are frequently interspersed with calms. This is the season of hurricanes in the Santa Cruz group and in the main part of the Protectorate gales of considerable velocity have been experienced; seas are often mountainous and on exposed coasts damage is inflicted on cultivations, coconut groves, and villages. The last serious storm occurred in January, 1952. On this occasion, although the hurricane was some considerable distance away, Tikopia suffered severe damage; coconut and bread fruit trees were torn down and cultivations destroyed. As is normal in that area, the hurricane was followed by severe drought, which delayed the re-establishment of cultivations and resulted in serious food shortage.

15. Records of rainfall are restricted to coastal areas, and no details are available in respect of the interior of the main islands. Generally the highest rainfall has been recorded at places with a south easterly aspect; for example, at Peow in Vanikoro rainfall over a period of years has averaged 240.13 inches, while at Rendova, New Georgia, an average for 31 years was 170.83 inches, although 239.89 inches was recorded in one year. The driest areas are those with a northerly aspect some distance from the mountains. At Lunga, on the Guadalcanar plains, the average for 29 years was 74.89 inches, while 35 miles down the coast at Aola, where the foothills rise close behind the station, the average for 25 years was 102.21 inches. In most parts of Malaita, 125 inches at least can be expected in any one year, while on San Cristobal, 200 inches would not be unusual. Variations are extensive from year to year, and also from place to place, even if they are no great distance apart. The

heaviest rains fall in January, February and March when the north west season is at its height, while the driest months are June, July and August. This is but a generalization, and again variation is considerable. It would be an exceptional month in the early part of the year for rain to exceed 25 inches, while it would be equally exceptional in the middle of the year if less than an inch fell.

16. Temperatures and humidity between places at sea level show less variation than at higher altitudes. However a marked variation in temperatures occurs between seasons. In the south east season mean maximum is 87° while mean minimum is 75° . In the north west season the respective means are 90° and 77° . Relative humidity at 9 a.m. remains at between 75 and 85 in both seasons.

17. While all Solomon Islanders recognize the existence of two main seasons, which in the different districts are represented by words for the respective winds, they tend generally to define seasons in terms of their own activities and the occurrence of natural phenomena. These are, however, related in most cases to the two main seasons. For example, there is the season when yams are planted, when bonito are running, when ngali nuts are harvested, when turtle are mating, when new grass springs up, and of course, when the different crops are harvested. The whole rotation of seasonal events and the prodigality of land, sea and water are marked and observed.

18. As stated above, rainfall is plentiful, and with the many constantly flowing rivers, streams and natural springs scattered throughout all large islands, water supply is more than sufficient. In the Reef islands however, streams are non-existent or tend to dry up, and old established wells are used. In some places, notably at Tikopia and in the hills above the Maringe lagoon, where settlements may be established at a distance from an adequate water supply, bamboo aqueducts are used. In Guadalcanar and Malaita, where some of the people prefer to establish settlements on high hills rather than in the valleys of streams, considerable labour is expended in the carrying of water in lengths of bamboos. When water is required for cultivation, such as for certain varieties of taro, natural fresh water swamps are used. Alternatively a rough bamboo aqueduct is constructed.

19. In general, although the climate is hot and humid, the regularity of cooling winds and rain makes it a reasonable one by tropical standards. Despite the variations of rainfall there is no place in the Protectorate where climate militates against subsistence agriculture, except in respect of the rapidity with which vegetation grows on cleared land and in cultivations. On the other hand, the heat and the humidity make for indolence and discourage Solomon Islanders from experimenting with new food plants or cash crops which may involve them in more than normal effort. Many resist attempts to introduce a new crop, such as rice, because they would have to work harder in the heat of the sun than they do in producing traditional subsistence crops or in harvesting copra, both of which are yardsticks of manual effort.

20. The bulk of the population has been described as hypo-endemic to malaria which together with infant mortality, enlarged spleens,

secondary anaemia, yaws, hookworm and poor diet, creates a disability which, it has been roughly estimated, reduces capacity by 25 per cent. This is an important human factor in land usage.

Forests and Vegetation

21. The forests of the Protectorate have been surveyed,⁴ but no survey has been made of other vegetation.

22. Mr. Walker in his report begins with a brief ecological description of the Protectorate in relation to forests, and notes that from the air and sea vegetation appears to be continuous and dense. He points out that botanically the region is part of the New Guinea sub-area of the Malaysian region and divides the forests into the following types:-

- (1) (i) beach forest;
(ii) mangrove forest;
- and (2) (i) primary inland forest -
 - (a) lowland and foothill forest,
 - (b) freshwater swamp
 - (c) mountain forest;
- (ii) secondary forest and open grassland.

He states that littoral forest is characterised by species with seeds or fruits which are disseminated by ocean currents and are thus remarkably uniform. As regards inland forests, he emphasises that forest is only truly primary or "virgin" if it has remained undisturbed by man for many centuries, and is characterised by a preponderance of large trees, a top storey canopy broken only by casualties from old age, and a comparatively sparse ground flora. Mr. Walker goes on to note that large areas of primary forest in the lowlands and foothills are very rare, because shifting cultivation has been sufficiently widespread to affect almost all land deemed suitable for use. He emphasises that in many areas there were indications of forest being in a state of transition from secondary to primary forest.

23. As regards secondary forest and open grassland, he states that this is a very common feature throughout the lowland and foothill forests of most islands, and that it is almost entirely the result of shifting cultivation, or "bush fallow" agriculture, which now involves or has involved most of the fertile land. Almost all tree species of secondary forest are in constant use in the economy of Solomon Islanders. Mr. Walker draws attention to the need for study to be made of the transition of secondary to primary forest, since the areas affected are very large. It is impossible to estimate the time taken by this transition since so many factors, including fertility of soil, the degree of leaching and erosion, and proximity of primary forest species, are involved. Although concepts of time taken for light secondary vegetation to revert to primary

4. F.S. Walker, "The Forests of the British Solomon Islands Protectorate" Published by the Crown Agents for the Colonies, 1948.

forest vary from island to island, Solomon Islanders generally think of secondary growth as being limited to small and medium trees, while mature secondary forest and transition forest is usually regarded as primary forest. This will be referred to later in the report.

24. Mr. Walker gives a detailed description of present forestry conditions, and makes some valuable remarks about the use of "bush fallow" in shifting cultivation and native land tenure. He describes briefly the forests of individual islands and estimates the possible amount of located growing forest at 27,400,000 cubic feet. He recommends the establishment of a Forestry department, the passage of legislation and rules, and indicates the nature of future operations. Mr. Walker has some useful views on land policy in respect of forestry. Although the Department has now been operating for five years, and much valuable work has been done, the absence of a native land policy has prevented the enactment of legislation. In consequence no forests have yet been reserved.

25. The following is Mr. Walker's rough estimate of land in the Protectorate under forest:-

Island or Island Group	Area of productive forest re- garded as accessible	Area of non-productive forest	
		Under 10 year "bush- fallow" rot- ation	Other, incl- uding sec- ondary forest and mountain
	sq. miles	sq. miles	sq. miles
Guadalcanar	10	55	2,200
Florida	-	15	200
New Georgia group	30	29	1,900
Shortland islands	3	4	90
Choiseul	7	18	1,000
Santa Ysabel	20	19	1,700
Russell islands	-	2	40
Malaita	4	165	1,400
San Cristobal	-	31	1,200
Rennell and Bellona	-	5	200
Santa Cruz group	6	17	300
Total	80 (51,200 ac.)	360	10,230

This represents a total of 10,670 square miles or 94 per cent of the total land area. Some idea of the density of Protectorate forests can be formed from the knowledge that a long established company estimates the cost of clearing and felling the forest, ready for planting an economic crop, to be something of the order of £A40 per acre. At Vanikoro, the cost of cutting and surfacing roads into the forest areas is estimated to be of the order of £A5,000 to £A6,000 per mile.

Fauna

26. There has been no systematic study of animal life, which is limited. Wild pigs (notable for long snouts and sharp back bristles), opossums, various species of rats, iguana, lizards, giant frogs and snakes (some of which are venomous), are indigenous. Crocodiles were common in rivers and on sea coasts until recently, when hunting by Europeans reduced their numbers.

27. There is a great variety of land and sea birds on which a few admirable studies have been published. The hornbill, eagle, frigate bird and various species of owl and cockatoo, have totemic significance for different tribes. Wild fowl, various species of pigeon, wild duck, the flying fox and the bat are found in almost all islands.

28. Insect life is not troublesome by tropical standards, but anophelene mosquitoes occur in the swamps and still waters of the coasts and are found up to heights of 1,000 feet. Sandflies are prevalent. Scorpions and centipedes exist but seldom attack. Butterflies are present in great number and variety. Amblypelta ants, which cause nutfall in coconut palms, are responsible for considerable economic loss to the Protectorate, and their incidence, behaviour, and eradication constitute the main study of the Government entomologist.

29. As in most tropical islands where reefs abound, aquatic fauna is extensive and the different forms, as well as providing valuable protein in the diet, have totemic and other significance for the people. Mr. H. van Pel⁵, Fisheries Officer to the South Pacific Commission, visited the Protectorate in 1956, and besides surveying the types of fish found in the different waters, made recommendations as to how fisheries can be preserved, and fishing techniques improved.

Communications

30. Communications between the Protectorate and the outside world are maintained by a scheduled air service operating one aeroplane a week, except for every fourth week, a scheduled shipping service to Australia providing about eight round trips a year by one vessel, a scheduled shipping service with Hong Kong providing four through trips a year, and an overseas telecommunication service. An irregular shipping service collects copra for export to the United Kingdom.

31. Within the Protectorate, inter-island transport is provided by a fleet of fourteen Government vessels, the largest of which is 102 feet long. There are also about forty to fifty powered vessels (mainly privately owned by European companies, traders, planters and missionary societies) and some sixty small cutters owned by Solomon Islanders. Finally there is a prodigious fleet of native canoes, ranging from high prowed ocean going craft of 60 feet in length, capable of carrying 30 to 40 persons, down to small one-man dugouts suitable for lagoons and calm waters.

5. H. van Pel, "A Survey of Fisheries Resources in the British Solomon Islands Protectorate". South Pacific Commission, Noumea, 1956.

32. Communication between Honiara and most outlying islands and stations is maintained by tele-radio.

33. Some 35 miles of public roads are motorable in Honiara and its environs. The majority of the 230-odd motor vehicles registered in the Protectorate operate in this area. A network of wartime roads exists in the Russell islands. On the coasts of all major islands, "roads" are maintained partly by communal effort, and partly by use. In the majority of cases such "roads" are no more than foot tracks from two to six feet wide, which in the better stretches and in good weather are negotiable by bicycles. Generally speaking, Solomon Islanders derive no satisfaction at all from the hard work and effort which is necessary in constructing wide well-surfaced and properly drained roads. Without bush canopy they find them agony to walk upon in the heat of the day. A network of bush tracks covers the interiors of islands with bush populations, while those with coastal populations only have one or two well-defined overland tracks.

34. Travel in the Protectorate both by small ship or on foot is both arduous and slow. Distances are very considerable, and since population is sparse, a prodigious amount of time is wasted in coming to grips with the work to be done. In addition, weather is unreliable and can prevent small ships making headway or stop them even putting out; on land the rapid flooding of rivers can make their negotiation hazardous and foot travellers can be held up for days on end. Finally, both at sea and on land, mechanical transport is always subject to the hazards of climatic effects on the engines, to say nothing of the ubiquitous nature and the limited capacity of the Solomon Island mechanic.

Conclusion

35. In conclusion it should be emphasised that factors of geography, namely, distribution of islands, topography, geology, soils, climate, forests, fauna and communications, all combine to condition the customary tenure system.

CHAPTER II

THE PEOPLE

(A) Solomon Islanders

Race

Solomon Islanders may be broadly divided into Melanesians who inhabit the main islands and Polynesians (with a slight admixture of Micronesian blood) who live on the isolated outlying islands of Ongtong Java, Rennell, Bellona, Sikaiana, the Duffs, Tikopia and Anuda. This classification has a number of limitations, not the least being that it has no regard for the obvious racial differences in the Melanesian bloc. This can be further subdivided as follows:-

- | | |
|--------------------|--|
| Westerns - | All those people of New Georgia, Vella Lavella, Shortland islands and Choiseul, who, together with the Bougainville and Nissan island people, form the inexplicable "black spot" in the brown "sea" of Melanesia. This is the periphery of Bougainville where although the majority of people are coal black, reddish and brown tints are to be seen in many skins. In post-protection times this has been increased by an intermixture of Tongan, European, Malaitan and Ysabel blood. The purest "Western" is found in the Shortlands and Choiseul. The people generally are taller, slimmer, longer headed and finer featured than the Melanesians to the east - the fine features are especially noticeable in the women. These people now live on the coasts though they did not necessarily do so once; they are proficient in canoe making, ocean travel and fishing. |
| Saltwater - | All those people of Ysabel, the Russells, Malaita, Florida, Savo, Guadalcanar, San Cristobal and adjacent islands, and the Melanesians of the Santa Cruz group who have traditionally lived on the sea coast or on artificial islands, who are versed in all arts of the sea, and whose forefathers in almost all cases propitiated the shark. |
| Bush or Mountain - | All those inland dwellers of Ysabel, Malaita, Guadalcanar and San Cristobal who are not versed in the arts of the sea and who generally are shorter in stature and legs, broader faced and heavier nosed. |

2. This classification has obvious defects, the main one being that the terms are unknown to physical anthropologists. It is not

supported by scientific measurements and is based purely on the convenience of observation with no regard for the curiosities of language. As every year goes by, the improvement in communications and the breakdown of petty sectionalism and suspicion, combined with increasing intermarriage between islands and people, will cause the emergence of the Solomon Islander and less and less opportunity will exist to isolate racial characteristics.

Origins

3. It is now unfashionable among anthropologists working in the Western Pacific to concern themselves with the origins of Solomon Islanders. Dr. W.H.R. Rivers' monumental study "The History of Melanesian Society", now said to be "unscientific", is nonetheless fascinating "reconstruction" of how the present social structure might have emerged. Furthermore, the Commission has found while making enquiries from one end of the Protectorate to the other, that any enquiry about land-tenure automatically evinces accounts of past migrations and movements, of peoples who lived there "before", and of how present interests are derived. Much of this might well be myth, perhaps deliberately fabricated either because District Officers have said that "custom" should not be forgotten, or because the Marching Rule movement sensed a loss of the past and taught that custom should be revived. Perhaps anthropologists themselves have been guilty of acculturating. In any event, a great many of these stories are believed by the tellers and are tendered as evidence of land interests.

4. The traditions of the outlying Polynesian islands, together with the research which has been carried out, indicate that the people are offshoots of the main Micronesian and Polynesian migrations in the Central Pacific. Later arrivals were either forced to emigrate from their own islands because of strife at home, or were inter island fishermen and voyagers driven off their courses in Polynesia.

5. Coming now to the Melanesian islands, it would seem from all traditions and studies, including those of Dr. Rivers, that the people are a product of a series of migrations going back over the centuries, that the Bush people are descended from the earlier aboriginal inhabitants and the saltwater people are the more recent arrivals. During the nineteenth century internecine warfare, particularly between bush and saltwater peoples, and between different islands, reached a considerable pitch. When British protection was established in 1893 the various combinations of groups formed under the threat of raiding neighbours, together with the emergence of a number of powerful chiefs, notably in the Shortlands, Roviana, southern Isabel, Florida, Arosi and Santa Ana, suggests the emergence of tribal government and the rule of paramount chiefs. Annexation and the introduction of law and order stopped this, otherwise given another 50 years, the social system might have evolved as it did in Fiji.

1. W.H.R. Rivers, "The History of Melanesian Society", Vols. I and II - Cambridge, 1914.

6. Only the more recent clashes and movements in the immediate pre-annexation period need be mentioned. In the Shortlands, the people of Mono (Treasury) had captured Alu and Fauro and had either driven out, intermarried with or killed the former inhabitants. In New Georgia, the Rovianas and Simbos were carrying out large scale head hunting raids to Choiseul, the Manning Straits and Ysabel. These attentions resulted in the elimination of the population of the Manning Straits while the bulk of the Western Ysabels were driven to the south east of the island, where the Bugotu people in their turn were pressing on Sandfly in Florida. In New Georgia itself most of the bush people had been wiped out by war and disease or had allied with the two main groups, the Rovianas and Marovos; at the same time the many smaller tribes raided among themselves and feared the Rovianas. In Malaita the main clash was between the saltwater and bush peoples, although the former raided in Florida and on the north coast of Guadalcanar and vice versa. Colonies of the Lau lagoon peoples had been established at Nonosila and Wilade in Port Adam. The Savoese ranged the central area and in particular had depredated the Russells. The Marau Sound islands had long been colonised by the people from Ariari on Malaita, while Ulawa was dominated by Small Malaita people who were also found in great numbers in Arosi. Santa Ana mercenaries were employed in raiding far up the coast of San Cristobal while in the Santa Cruz group, the clash between the bush and saltwater people at Ndeni was of long standing. In addition, a great many local feuds proceeded between settlements and districts. Human life was cheap; murder and assassination dealt with petty offences; few slept peaceably in their beds and natural death was regarded as the work of sorcerers. In these circumstances it was not surprising that except on organised forays, most Solomon Islanders kept close to their own districts and villages and nurtured their parochialism.

Language

7. The following table, which is by no means exhaustive, particularly in the case of Malaita, shows the dialects currently spoken in the Protectorate and their areas:-

<u>Dialect</u>	<u>Tribal Area</u>	<u>Island or Group</u>
Bambatana	Bambatana)	Choiseul
Tavula	Tavula)	
Warisi	Warisi)	
Rivio	Rivio)	
Senga	Senga)	
Keruqala	South Senga)	
Katupika	Katupika)	
Mono	(Alu)	Shortland Is.
	(Mono)	
	(Fauro)	

2. Dr. H. Ian Hogbin stated that approximately 20 dialects are spoken in Guadalcanar. "Social Organization of Guadalcanar and Florida" "Oceania" Vol. III No. 4, June 1938.

<u>Dialect</u>		<u>Tribal Area</u>	<u>Island or Group</u>
Vekalo	(Vella Lavella	New Georgia
	(	Gannonga
Narovo		Simbo	
Duke		Kolombagara	
Kusage		Kusage and North	
		Marovo lagoon	
Baniata		Western Rendova	
Ugele		North and Eastern	
		Rendova	
Roviana	(	Wana Wana
	(Roviana	Ysabel
Barake		Northern Vangunu	
Vangunu		Southern Vangunu	
Marovo		Marovo lagoon	
Bugotu		Bugotu	
Gao		Gao	
Maringe		Maringe	
Konaga		South east Maringe	
Kakatio		Hogorana	
Zazao		Logahadja	
Zabana		Kia	Russell Is.
Lagu		Baolo and	
		Samosodu	
Russells		Russell Islands	
Nggela		Florida	
Savo		Savo	
Ghari	(Visale	Guadalcanar ²
	(	Sugu
	(	Tasimboko
Lengo	(	Aola
	(	Paripao
	(	Longgu
	(	Valasi
	(	Tetikanji
	(	Marau bush
Birao	(	Moli
	(Avuavu	
	(	Talisi
	(	Malango
	(Vulolo	

<u>Dialect</u>	<u>Tribal Area</u>	<u>Island or Group</u>
To'obaita	To'obaita	Malaita
Lau	Lau lagoon	
Baelalea	Baelalea	
Baegu'u	Baegu'u	
Fataleka	Fataleka	
Kwara'ae	Kwara'ae	
Langa Langa	Langa Langa	
Koio	Koio	
Ariari	Ariari	
Small Mala	Small Malaita	
Arosi	Arosi	San Cristobal
Bauro	Bauro	
Hegaa	Wainoni	
Funarite	Star Harbour	
Taurarafa		
Oa Rafa	Santa Ana	
	Santa Catalina	
Mamarego	Rava	
Haununu	Haununu	
Ugi	Ugi	
Ulawa	Ulawa	
Ndeni	Nambakainga	Santa Cruz Group
	Graciosa bay	
Nabualue	Nea	
	Nabualue	
Reefs dialect	Reef Is.	
	Duffs	
	Nupani	
Taumako	Nukapu	
	Pileni	
	Matema	
Amba		Outlying Polynesian Is.
Abago	Utupua	
Atago		
Buma	Vanikoro	
Tikopia	Tikopia	
	Anuda	
Sikaiana	Sikaiana	
Rennellese	Rennell and Bellona	
Ongtong Java	Lord Howe	

8. The total number of dialects thus spoken is 65 of which five are Polynesian. Of the remainder, three - Savoese, Russells and Vekalo on Vella Lavella - are said to be Papuan or pre-Melanesian

dialects while the remainder are normally classed as Melanesian. Some of these have been identified as such but the majority of them have not been subjected to scrutiny.

9. No lingua franca has been applied in the Protectorate, but each of the missions has attempted to apply one or two of the dialects most widely spoken in their respective areas, by translating scriptural texts and hymnals into dialect. Time and usage of these, combined with the efforts of one or two missionaries who have compiled dictionaries, have resulted in Roviana, Nggela, Lau, Ghari and Marovo being widely understood but not universally adopted.

10. Where "applied" dialects are not used individual missionaries speak the dialect of the area in which they are working. In the commercial sphere, on plantations, in most Government Departments, in the High Commissioner's Court and indeed in all intercourse between people of different islands (except in certain schools and among the few educated individuals) pidgin English is used. When correctly spoken, it is an effective language, combining local pronunciation of elided English words with Melanesian grammar. Government officers must pass examinations in pidgin English but are not required to learn a dialect. The language problem is a difficult one and the lack of a lingua franca discourages the development of a land tenure system based on any codification of native custom. English is used in Government offices, and an increasing number of Solomon Islanders are able to speak it reasonably well. A popular but sadly mistaken belief exists that "simple" English is the solution to the problem. This tortuous monstrosity - a cross between bad pidgin, basic English and childish babblings - proves disastrous whenever it is used, and in the absence of a lingua franca, pidgin English or English are the only alternatives.

Cultures

11. A superficial examination of Solomon Island cultures today might result in the conclusion that a remarkable homogeneity exists. For example, women are regarded as property to be jealously guarded and bought in marriage; pigs are wealth and contribute to social status; prestige can be acquired by providing large feasts and giving away food; "bush" fallow and subsistence cropping are the essential features of agriculture; the kinship or lineage group is the dominant characteristic of the social structure; primitive monetary systems are universal; the ivory nut leaf is the main material used in housebuilding; belief in sorcery is widespread. These generalizations could go on, but closer examination reveals that considerable differences occur in the integration of these and other institutions into the social fabric, and the conclusion may be reached that diversity of cultures is every bit as great as that of the languages.

12. At the same time, in the course of field work certain patterns of culture have emerged. These seem to coincide with the classification into Polynesian, Western, Saltwater and Bush peoples. It is one which has a number of advantages and this is apparent when

considering the manner in which these groups have reacted to the various acculturating influences. For example, it might be said that the Western people participate in the cash economy as entrepreneurs or producers simply to accumulate European capital goods and acquire a higher individual standard of living. They despise labouring. Saltwater people participate by any available means that is lucrative for less obvious reasons except perhaps simply to accumulate money. Bush people participate as labourers only to purchase the bare essentials of trade goods and to pay taxes. Polynesians participate by any means which serves to break their isolation. These, too, are generalisations and partial truths, for many exceptions and variations are found. But by and large, all four groups seem to have reacted differently to missions, education, Government administration, the Pacific war, and the various political movements and cults. Finally, all have reacted differently to European concepts of land tenure, and while it is not intended to base the findings and recommendations of the Report on this classification, it is one which should be borne in mind. The general thesis that Solomon Islanders today might be classified according to how they have reacted and are reacting to acculturation, could well prove a fascinating subject for further study.

Population

13. The following figures indicate wide variations in the population distribution of Solomon Islanders:-

	Number of sett- lements	Popul- ation	Approx- imate area of unalien- ated land sq. miles	Approx- imate density
Shortland Is.	9	950	100	9
Choiseul	69	4,572	1,140	4
Vella Lavella	28	2,700	250	10
Roviana	46	3,317	675	5
Simbo	5	950	10	95
Gannonga	3	1,250	54	23
Gilbertese sett- lement (Gizo)	1	130	2	65
Marovo	31	2,454	600	4
Ysabel	98	6,000	1,640	4
Florida	45	4,020	160	25
Guadalcanar	360 (approx)	14,000	2,000	7
Savo	11	981	13	75
Russell Is.	4	336	30	11
Tikopian settle- ment (Russell Is)	1	20	1/6	120
San Cristobal	101	5,813	1,462	4

	Number of sett- lements	Popul- ation	Approx- imate area of unalien- ated land sq. miles	Approx- imate density
Santa Ana and Santa Catalina	7	860	8	120
Ulawa	12	1,853	40	46
Ugi	10	248	16	16
Malaita	600 (approx)	46,000	1,800	25
Santa Cruz	35	2,002	200	10
Reef Islands	21	3,300	16	206
Vanikoro	4	100	100	1
Utupua	2	188	25	7
Duffs	1	128	5	25
Tikopia	26	1,594	5	319
Anuda (Cherry)	1	133	1	133
Ongtong Java (Lord Howe)	3	768	40	19
Sikaiana	9	368	2	184
Rennell	21	750	100	7
Bellona	8	524	6	87
	1,572	106,309	10,500	10

These figures have been collected from local records during the course of the Commission's enquiries and are not the results of a formal census. The only completed official census was held in 1931 when the figure of 91,409 was established for all races. Since the war the Melanesian total has been taken at 94,000 and the Polynesian at 4,350. In particular, the areas of each island are very roughly computed from inaccurate charts. They are sufficient, however, to show the wide variation in population distribution.

14. The early accounts of the Spanish explorers, eighteenth century voyagers, missionaries, traders and blackbirders of the late nineteenth century point to the Protectorate having supported a much greater population before Europeans arrived in any numbers. This is corroborated by native tradition and genealogy, as well as by present day evidence in the form of vast areas of secondary growth. Headhunting and other nefarious customary practices together with the labour trade, disease, and well intended but unfortunate techniques of early missionaries and administrators, traffic in arms and liquor, all combined with the psychological collapse consequent upon the destruction of so many primitive institutions, are among the many contributory causes of depopulation.

15. Mr. C.M. Woodford, the first Resident Commissioner, estimated the population as being "150,000 though it was more likely to be 200,000". He was convinced that the Melanesian race was doomed to extinction and in 1909 wrote to the then High Commissioner:- "My opinion is that nothing in the way of the most paternal legislation and fostering care carried out at any expense whatever can prevent the eventual extinction of the Melanesian race in the Pacific. This I look upon as a fundamental fact and as certain as the rising and setting of the sun". The fact that Mr. Woodford's unhappy prognosis has not been fulfilled is a measure of the efforts of later administrators and missionaries. Little money was available but paternalism, with all its disadvantages, underlies the legislation affecting Solomon Islanders from the Pacific Islanders' Protection Act in 1873 until the outbreak of the Pacific war in 1941.

16. With the exception of one or two areas, signs exist that not only has depopulation been arrested but some increase may reasonably be expected. Unfortunately comprehensive figures are still not available, but one or two illustrations are given. In 1908 Dr. W.H.R. Rivers of St. John's College, Cambridge, spent some time at Simbo (Eddystone Island). In his paper "The Psychological Factor" in "Essays on the Depopulation of Melanesia" he provided figures compiled from the genealogies he collected. These show considerable evidence of depopulation and are as follows:-

Generation	I	II	III
Total number of marriages	207	295	110
Total number of children	447	379	72
Childless marriages, in percentage	19.4	46.1	52.7
Marriages with:-			
1 or 2 children	3.5	29.0	32.7
3 or 5 children	32.8	18.9	5.5
6 or more children	4.3	3.3	0
Number of children doubtful	-	2.7	9.1
Children who died young -			
Male	6.4	18.5	31.1
Female	4.5	8.1	14.8

In 1953, the following figures were collected by Dr. J. de Beaux, Government Medical Officer and these may be taken as being representative of the position two generations later.

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3. W.H.R. Rivers, M.D., F.R.S., "Essays on the Depopulation of Melanesia", Cambridge 1922, p. 98.

Generation	V
Total number of marriages	118
Total number of children	416 ⁴
Childless marriages, in percentage	8.5
Marriages with:-	
1 or 2 children	28.0
3 or 5 children	44.0
6 or more children	19.5
Number of children doubtful	---
Children who died young	28.5

In 1900, the population of Kolombangara was estimated by Mr. Woodford to be 250. Today it numbers 440. With the exception of Choiseul and the Shortlands which suffered during the occupation by the Japanese, these figures are typical of the improving position in the Western Solomons.

17. In Small Malaita, 1956 census figures compared favourably with those in 1933 and 1938 as follows:-

1933			1938			1956		
M.	F.	Total	M.	F.	Total	M.	F.	Total
2540	2006	4546	2758	2116	4874	2852	2407	5259

Elsewhere in Malaita, particularly among the saltwater people, the same healthy signs are seen.

18. On Savo, the population is increasing rapidly. The 1956 figure of 981 compares favourably with the 1943 figure of 643. In Ysabel the 1945 figure was 4,500. Today it is in the region of 6,000. In the Talise area of Guadalcanar, where depopulation was formerly serious, an analysis of statistics collected in 1953 indicates that recovery has started but no comparative figures are available.

19. Coming now to the Eastern Solomons and the islands of the Santa Cruz group, figures are not available in respect of San Cristobal, but it is believed that with the exception of Santa Ana and Santa Catalina, where population is increasing, the figures would indicate that the position is stationary. At the Reef Islands in the Santa Cruz group where the gravest depopulation was reported thirty years ago, the total population in 1944 was 2,240 and in 1956 it had reached 3,136.

4. In addition 116 died.

20. At Tikopia, the position is also encouraging. The Government census of 1933 showed a total of 1323 persons which was a 3 per cent increase on Professor Firth's figures of 1929.⁵ At the end of 1955 following a cycle of serious droughts starting in 1952 and a severe influenza epidemic in 1955, the figure was 1,594, or about 20 per cent greater than the 1933 figure. This is a healthy position and is creating its own problems which will be referred to later. Turning now to the other outlying Polynesian islands, Ontong Java, after suffering considerable depopulation since the turn of the century, which caused Dr. Hogbin⁶ to state that there would probably be no natives left after a few more years has now reached 768. This is an increase of 30 per cent on the official census of 588 taken in 1939 by Mr. G.H. Kuper which is the lowest figure ever recorded. At Sikaiana the population is healthy. It is at Rennell and Bellona however that the position is discouraging. Dr. S.M. Lambert⁷ in 1930 estimated the population to be between twelve and fifteen hundred, while in 1941 it was fixed at 1,318. By 1956 it had fallen to 1,274, and there is every indication that this fall will continue.

21. Thus with one or two exceptions, population trends are healthy. In several cases, notably the Reef Islands, Santa Ana, Tikopia, Savo, the Lau lagoon and probably in the Roviana and Wana Wana lagoons where the people are concentrated into a small area, over-population may become a serious problem, and reference will be made to this later. One important point should however be noted here. Regardless of whatever the demographic experts might say, almost all Solomon Islanders firmly believe that in the last century the population was very much greater. They now believe it to be growing steadily and in some places very rapidly. These beliefs help to colour their views on future land requirements.

22. Some observations must be made on the maintenance of demographic records and registers of births, deaths and marriages. The former are essential in assessing trends of population and measuring these against land capacity. Such records in respect of the pre-war period and the immediate post-war period are almost non-existent for the following reasons:-

- (a) The files of the Western Pacific High Commission from 1920 onwards, which contain a large proportion of the material, are fast disintegrating through weather and termites, and are now in such a state of disorder that only an archivist can make effective use of them.
- (b) The files of the British Solomon Islands Protectorate central administration prior to the War were destroyed, while those during and since re-occupation are also disintegrating.

5. Raymond Firth, "We the Tikopia", George Allan and Unwin Ltd., London. 1936. p.600.

6. H. Ian Hogbin, "Law and Order in Polynesia" London. 1934. p.92.

7. S.M. Lambert, M.D., "Health Survey of Rennell and Bellona Islands", Government Printer, Suva, Fiji. 1932.

- (c) The district records of Gizo, Tulagi, Aola, Tataba and Faisi were almost all destroyed, and those which were preserved are in such a state as to defy effective analysis.

23. As already mentioned, no census has been successfully completed since 1931, and this also is a serious hindrance in the formulation of future land policy. Accordingly, it is recommended that steps should be taken to preserve, centralise and assess such demographic material as is available, and to institute plans for a complete demographic survey of the Protectorate to be completed in 1961. If politically possible this might also be combined with an agricultural survey based on the sampling techniques which were applied in the case of the 1949-50 Basutoland Agricultural Survey.

24. As regards births, deaths and marriage records, the pre-war registers were either lost or are in such a state as to be useless. Since the war the work of keeping such statistics has been handed over to the respective Local Councils without basic registers being re-opened. Apart from that, no unified system has been adopted, and each District follows its own system. These facts, combined with the limited capacity of the clerical staff employed by Local Councils have resulted in chaotic records and in some cases none at all. It is emphasised that an efficient and unified system of recording births, deaths and marriages is normally an essential prerequisite to a modern system of land tenure, and it is recommended that steps should be taken to introduce a simple, unified, up to date and effective method which would fit in with a system of land registration. If necessary, new legislation should be enacted. It is recommended that at least half the cost should be borne by Central Government funds. This is considered reasonable, since with the destruction of pre-war records, it was expecting too much of newly formed Local Councils, with their limited resources, to accept the responsibility of recompiling new records after the war had destroyed them.

Residential Settlements

25. Villages and settlements may be divided into six main categories as follows:-

- (a) Coastal and island settlements - These are permanent small settlements or villages situated on the sea coasts or on small islands but having some adjacent land for cultivation. For example the villages of Luanina, Ontong Java; Paramatta in Vella Lavella.
- (b) Man-made island settlements - These are large villages situated on man-made islands and constructed on reefs without adjacent land for cultivation; the settlement covers the whole of the island and cultivations are made on the mainland. For example, the villages of Andagegge and Sulufou on Malaita and Taumako, Duff Islands.

- (c) Bush settlements - These are permanent villages of anything from two to fifty houses situated inland from the coasts. For example, Kolokaepito in Ysabel and Betilonga in Guadalcanar.
- (d) Settlements used for occasional activities - These are settlements used by any number of persons who have broad ties of kinship for political or mission activities, or simply as a central gathering point for medical treatment. For almost all the time such persons live in isolated small temporary settlements adjacent to their cultivations. Examples are the remnants of the old Marching Rule "towns" and the village of Haotaki on Guadalcanar.
- (e) Temporary settlements - These are settlements of about one or two houses of rough and impermanent construction - little more than shelters - situated adjacent to cultivations. They are shifted when a cultivation has been worked out. Such settlements are also used by people with permanent villages, but whose cultivations are far away. They may be used for anything from two to three weeks at a time to eight or ten months. Examples are the settlements of the bush people of the Wainoni sub-district, San Cristobal.
- (f) Township settlements - These are native settlement areas on Public land situated in townships such as Honiara, Gizo and Auki. Almost all people living in them are employed in the townships and are allowed, with certain restrictions, to make subsistence cultivations on land which is not required for immediate settlement.

26. Houses are generally constructed with hardwood corner and king posts, soft wood or bamboo battens and panels of ivory nut leaf or plaited coconut fronds lashed to the framework. Less than fifty per cent have floors, which may be of betel nut bark or hewn planks. Kitchens, which are little more than lean-to shacks and are generally without floors, are separate. Sophisticated designs and styles incorporating verandahs and elaborate plaited bamboo work are to be found in isolated places, such as the Shortlands. Corrugated iron roofs are becoming increasingly common. Constructions of sawn timber are relatively rare except in places like the Russell Islands where much salvage material was available after the war. Demand for houses of permanent material is developing. Houses of fibro cement and cement brick are found in the townships.

Cultivations

27. These are of three main types, as follows:-

- (a) Subsistence cultivation - Cultivations worked purely for subsistence purposes on a "bush fallow" rotation. Such cultivations also contain food bearing trees. The various aspects of subsistence agriculture will be discussed in a later chapter.

- (b) Cash crop cultivation - Cultivations in which are grown staple subsistence plants such as yams and sweet potatoes, European vegetables, and hill rice. The produce is largely sold or exchanged in markets. The value of such crops is negligible and would not exceed £A5,000 in value per annum.
- (c) Cultivations of economic trees - Coconut groves are extensively established in coastal areas. Although the nuts are used for food purposes, a large proportion is made into copra. In 1955, a total of 7,948 tons, some 42 per cent of the Protectorate total of 18,905 tons, was produced by Solomon Islanders. This was valued at approximately £A530,000. The figure in 1956 was 8,292 tons or 39 per cent of the total of 20,264 tons. In addition, over 200 acres of cocoa have been planted on Malaita and in one or two other places, during the last four years, but the trees have not yet reached commercial bearing. Ivory nut trees were once planted in order to export the nuts, but there is now no market.

Hunting, Fishing and Gathering

28. Wild pigs are hunted with dogs and are significant in feasts and ceremonies. In some areas, notably Arosi, crocodiles are hunted for food, and a variety of techniques including snaring and shooting are employed in capturing them. Lizards, iguana and frogs are all hunted for food. Wild fowl, various species of pigeon and wild duck are either shot with a rifle or bow and arrow, or else snared. These are eaten, while feathers are often used for adornment. In Santa Cruz a species of red parrot is snared, plucked for its feathers and then released. The feathers are used in making the lengths of feather money (tahua) used as currency in the group. The flying fox is valued for food as well as its teeth which are used as currency. The megapode bird, valued for its eggs which are laid deep in the sand, has been domesticated on certain islands, notably Savo.

29. Fishing is undertaken by a variety of lines, rods, traps and nets; diving and spearing are common techniques, while in some cases fish are simply driven high and dry on a beach. Sea flora is used for food as well as for material purposes. Aquatic animals may be divided into three main classes distinguishable by the functions which they serve:-

- (a) Edible fish caught in rivers, on reefs and in deep waters for consumption or sale. In this class may be included all forms of shell fish and crustacea which are eaten.
- (b) Shellfish gathered in order to sell the shells for export. Examples are green snail, trochus, black lip and gold lip pearl shell. In 1955, 671 tons, valued at £A200,000 were exported. The figures in 1956 were 572 tons valued at £A201,000. The whole of this was gathered by Solomon Islanders.

- (c) Shell fish gathered for the purpose of manufacturing primitive money from the shells and fish such as porpoise, captured for the teeth which are also used as money.

In almost all the techniques of fishing and gathering of shells, the timber canoe either plank built, dug out, and with or without outrigger is integral.

30. A wide range of edible plants are gathered from the bush, while the leaves and grasses are used for medicinal or magical purposes. Reeds, grasses and leaves are used in the making of baskets, hats, mats, brooms, rope, string and nets, a proportion of which are often sold for cash. Saps are collected for binding while clays are used for decoration and making cooking pots. Timber has a widespread use, for apart from being the main fuel, it is used in the construction of houses, canoes, tools, implements, weapons, ceremonial objects, food bowls, and many other articles of the material culture.

Stock Raising

31. The raising of pigs for prestige purposes associated with the giving of feasts on the occasion of ceremonies and in the accumulation of wealth is the main stock raising activity of Solomon Islanders. Pigs are normally kept in fences of varying types and control of them will be referred to later. Pigs are being sold increasingly for cash and fetch prices up to £20 each on the hoof.

32. Cattle are kept by a few Solomon Islanders who have been influenced by European techniques of plantation development. They are bred for sale or else killed to provide food for feasts but have no ceremonial significance. The demand for cattle far exceeds the supply. All cattle are fenced. Solomon Islanders generally are not good with cattle; they are frightened of them which results in them becoming difficult to handle.

33. Fowls and ducks in limited numbers are kept in almost all settlements. Usually they are heavily inbred, have no customary significance and are not fenced.

Other Livelihoods

34. The operation of stores, bakeries, hawking businesses and trading boats all under licence are favoured occupations of Solomon Islanders. In the case of the first two, licences are not normally issued unless the applicant holds primary interests in the land on which the business is to be sited.

35. Approximately 2,500 Solomon Islanders, mainly from Malaita, are employed as labourers by short-term contracts on copra plantations owned or operated by Europeans. For the most part such labourers have no other means of earning a cash income.

36. Evangelism is an important profession in the Protectorate,

and every Christian village or settlement has its teacher, catechist, or priest whose remuneration may vary simply from the prestige which attaches to the office to a few pounds a year. It is estimated that over 1,000 persons are employed in direct evangelism or occupations related thereto such as boatscrews, labourers, carpenters, etc. In the case of the mission representative in villages and settlements, land has to be made available by agreement with the owners for the erection of a church, the evangelist's house, often a school and occasionally a dispensary.

37. The extension of Central and Local Government into new fields of activity, including the provision of a wide variety of additional services, together with the expansion of European and Chinese commercial agencies have necessitated an increase in the number of Solomon Islanders, possessing various degrees of skill, being employed as wage earners. They now occupy posts as assistant medical practitioners, medical attendants, dressers, nurses, clerical officers in most grades, artisans, police inspectors, constables, warders, assistant administrative officers, mechanics, drivers, wireless operators, weather forecasters, cashiers, assistant postmasters, storekeepers, overseers, tally clerks, foresters, agricultural field assistants, copra graders, justices, headmen, school teachers, ships' captains, sailors, customs officers, draughtsmen, besides being ordinary labourers, domestics, barmen and cooks.

(B) Europeans

Origins, Livelihoods and Stability

38. The estimated total population of Europeans living in the Protectorate is over 700 and of these 225 are women and 150 children. The last census which was held in 1954 resulted in a total of 647. Comparison with the 1931 figures of 273 men, 147 women and 77 children or a total of 497, indicates a considerable increase on the pre-war figure which was relatively constant.

39. Of the European population, over 60 are of mixed blood with European status and these are either first, second, or third generation born. A total of 48 are Continentals and the remainder are English, Australian, New Zealanders or from other Commonwealth countries. The following is an estimated breakdown on a percentage basis:-

Australians	41 per cent
English	29 " "
New Zealanders	9 " "
Part European	11 " "
Continental	7 " "
Others	3 " "
	<hr/> 100 per cent <hr/>

40. The following is an estimated breakdown of the population

divided into broad categories of occupation (women and children have been linked to the occupation of the head of the household).

Civil Servants ⁸	37 per cent
Missionaries	28 " "
Planters	17 " "
Trading and other occupations	18 " "
	<hr/> 100 per cent <hr/>

A generalization may be made in respect of these figures to the effect that the greater proportion of the English population comprise civil servants, while Australians constitute a very large proportion of the planting, trading and other occupations. The 1938/39 Blue Book shows a total of 39 established and supernumerary posts in the Civil List, while the 1956 List, details 143 posts actually filled by Europeans. On the other hand the 1938/39 Blue Book lists 120 Europeans as being employed as wage earners on agricultural work. The present figure of 17 per cent or 119 Europeans includes plantation owners, managers and directors and having regard to the facts that European plantations suffered considerable damage during the war, while others have not been rehabilitated, it might be concluded that the proportion of Europeans engaged in agricultural enterprises has declined.

41. With the exception of part Europeans and missionaries, the European population is a transient one. Only two Civil Servants at present employed lived in the Protectorate before 1939 and of these neither were then employed by the Government. Not more than fifty Europeans engaging in trade or agriculture lived in the Protectorate before the war. A very small proportion are second or third generation residents. With the exception of a few elderly part-Europeans, there is no retired population as is found in many other Colonial territories. Forty per cent of the European employees of the Civil Service and the greater proportion of those employed by the five largest commercial firms - Levers Pacific Plantations Pty. Limited, Fairymead Sugar Company Limited, R.C. Symes Pty. Limited, Mendana Enterprises Pty. Limited, and the Kauri Timber Co. Limited - are engaged on two year contracts. While a few of them are renewed for further periods, the majority are terminated after one tour. Thus the turnover in staff is considerable and this contributes to the general instability of the European population.

Settlements

42. The greater proportion of Europeans numbering over 300 is concentrated in Honiara. They live in houses built on sections of public land or on land held on lease from the Crown. More than two thirds of this population is concerned with the Civil Service and attendant facilities. Agricultural enterprise carried on around Honiara is limited to a few coconut plantations, two mixed farms and a poultry farm. Europeans attempt to cultivate their sections by either growing a few vegetables, flowers or shrubs. Some keep fowls and ducks. The economy of the settlement tends to be geared to the

8. Includes persons employed by statutory bodies and other Government agencies.

Civil Service and its needs.

43. The remainder of Europeans live either on outlying Government stations, on mission stations, at the headquarters of their companies or on isolated plantations.

Cultivations and Production

44. About two thirds of the pre-war total of 64,000 acres of European owned coconut plantations have been brought into production. In 1955 the copra produced amounted to 10,957 tons. Of this total, 4,645 tons came from Levers, and 1,439 tons from Fairymead Sugar Co. Limited. The balance amounting to 4,873 tons was produced by the smaller companies and individuals. The total produced in 1956 was 11,972 tons, the proportions being approximately the same.

45. The majority of European plantations were laid out by 1920 and new planting had virtually ceased by 1930. Since the war a limited amount of replanting of dead or destroyed trees has taken place but planting of new areas has been negligible. Not more than a fifth of the land taken up for coconuts has been utilised. Plantations were laid out on coastal areas only. Trees were planted in lines usually on the basis of 60 to the acre. Cattle were run extensively pre-war to keep down the undergrowth, but during the war the majority were killed off and very little restocking has been undertaken. Plantations were well fenced before the war, but where cattle are no longer run fences are in a poor state.

46. A few planters have recently established small plots of cocoa, but these are not yet bearing in commercial quantity. Although various schemes and plans have been made for the development of mixed farms, little has come of them. Apart from those mentioned previously, few Europeans cultivate anything but small quantities of vegetables and fruit for home consumption, while pigs, fowls and ducks are kept to supplement the diet of tinned meat. Most European plantations operate trading stores under licence. Very few Europeans have set up as retailers or full time traders.

47. Many of the larger and older mission stations produce small quantities of copra to supplement incomes from normal sources, while the production of vegetables under supervision to feed school boys and staff is a well established principle of mission economy. Stock and poultry are bred to supplement food supplies.

48. The working of timber concessions and sawmilling keeps about thirty Europeans employed. At present the Kauri Timber Co. Limited is working a concession over a kauri forest at Vanikoro; Tenaru Timbers Pty. Limited is exploiting a forest of mixed types on land held by Levers Pacific Plantations Pty. Limited under occupation licence at Tenaru, Guadalcanar. The Roman Catholic Mission and Seventh Day Adventist Mission operate sawmills at Buma and Batuna respectively for mission and general Protectorate consumption. Levers operate a sawmill at Lingatu in the Russell Islands for their own use.

49. Mining is in the prospecting and survey stage and a number of overseas companies have shown marked interest. Two small leases are being maintained by individuals.

50. In concluding this section, the generalization might be made that while the European population has increased considerably since pre-war, the pattern of occupations is much the same. Indications exist however that the people comprising the European community are much less permanent.

(C) Chinese

Population, Origins and Livelihoods

51. The Chinese population totals almost 300, of whom 203 are aliens. This figure is something of an increase on the pre-war total of 180. The Chinese are made up of original immigrants who have been in the Protectorate for over 35 years and locally born Chinese, some of whom are third generation. Almost all of them came originally from Hong Kong and are regarded as Cantonese. The earliest Chinese immigrants were brought into the territory by Levers and Burns Philp and Co. Limited, as clerks, storemen, carpenters and boatbuilders. Later they were allowed to bring in wives and children and permitted to trade.

52. Today the greater proportion of the population is engaged in storekeeping, trading and buying copra and shell, while the remainder are boat-builders, shipwrights, carpenters, mechanics and clerks. One Chinese company is at present establishing a biscuit manufacturing industry. They lease land, almost entirely small trading plots, from the Crown under the Land Regulation and the Aliens Land Holding Regulation. Three former European plantations are now held by Chinese; hitherto, they have been disinterested in agriculture but this now seems to be changing. They are generally sceptical of the agricultural capacity of Solomon Islanders, and some suggested to the Commission that many of their countrymen in Hong Kong would willingly make productive use of the thousands of idle acres.

Settlements

53. From the time that they were first free to trade the Chinese have preferred to group themselves in settlements, and administrative practice has encouraged this. Both in Tulagi and Gizo, and more recently Honiara and Gizo since the war, areas of Crown Land have been set aside and it is in these "Chinatowns" that they are permitted to take up leases. A few have been allowed to take up odd isolated leases of native and public land for trading stations. Very few Chinese have married local women. The Chinese community is a firm and stable one, has a considerable stake in the country and is anxious to expand.

(D) Other Pacific Islanders

54. A total of twenty Fijians and four Fiji-Indians are employed by the Public Works Department in Honiara on short term contracts. Three Fijians are on secondment in the Medical Department. Of these, three Fijians have their wives and families with them, one is married to a Solomon Islander; one Fiji-Indian has his family with him, while two are married locally. Although a number of these men renew their contracts regularly, only those who married locally show any interest in permanent settlement.

55. The Gilbert Islands are overpopulated, and a resettlement scheme is at present being undertaken at Gizo in the Western Solomons. Approximately 130 Gilbertese settlers have arrived in the last two years. They have been settled on land at Gizo not far from the district station. The question of resettlement will be referred to in detail later.

CHAPTER III

HISTORICAL CONSIDERATIONS

It is a popular fallacy that native custom is static, and while the barest consideration quickly disposes of such a belief as being absurd, it is nevertheless unfortunate but true that under the pressure of day to day affairs insufficient practical appreciation is given to its dynamic qualities. As will be obvious later, the present day system of customary tenure is a synthesis of ancient and modern custom modified by European concepts of tenure and governed by new needs, values and wants which the people have developed during the past hundred years. Some attention must therefore be given to historical events as they have affected the customary tenure system.

The pre-Protection Era

2. Mendana's voyage of discovery in 1568 and later his ill fated colonizing attempts at Santa Cruz in 1575, were the first contacts between Solomon Islanders and Europeans. These, together with the visits of the eighteenth century explorers concerned in the re-discovery of the Melanesian islands, were essentially transitory, and the people probably learnt no more of Europeans than the power of their muskets and the attractions of their trade goods. With the nineteenth century, contacts became closer. The first were the whalers who carried out their operations over a wide area. This group merely recognised certain harbours as regular places for watering, rest and refreshment. Then followed the traders in sandalwood and bêche-de-mer; and since these people were attracted to physical resources, contacts were closer. Even so, temporary or permanent settlement was unnecessary, since operations were based on ships. Nevertheless, the relationship between trade goods and exploitable resources was being driven home.

3. By the middle of the century the missions had come to the Solomons. The ill fated Roman Catholic mission of Monseigneur Epalle in 1844, which resulted in his death at Thousand Ships Bay in Ysabel soon after first contact being made, and later, the rest of the party's efforts to establish themselves in Arosi, San Cristobal, were probably the first attempts at deliberate settlement in the Solomons. Following upon the killing of three priests in San Cristobal in 1847, the mission withdrew. In 1850 the Melanesian Mission (Church of England) was founded in New Zealand. Settlement was not at first attempted, the missionaries making their headquarters on ships based first in Auckland and later on Norfolk Island. It was to these stations that youths were brought for training, and later returned to their villages as catechists and teachers. In the 'seventies European missionaries started living ashore at villages for a few weeks at a time. It was not until 1893, however, that land was acquired and a permanent station was established at Siota in the Central Solomons.

4. In all these activities the people were initially attracted to European trade goods and property. When it came to settlement, the missionaries were more dependent upon the consent and confidence of the people together with their resources. While chiefly influence was mainly responsible, the expectation of trade goods and prestige consequent upon a resident European made the people at one with their chief. Such unity would prevail only so long as expectations were not disappointed or the jealousies of less fortunate neighbouring groups did not provoke trouble.

5. Shortly after the middle of the century the pattern of commercial activity began to change. Coconut oil had become a profitable export. It was necessary, however, for the coconut flesh to be boiled down and the oil extracted. To do this a base on land was necessary. Very little land was required - sufficient for a house, a store and the boiling down works. Thus isolated European trading stations began to grow up - each one with its jealously guarded and recognised sphere of influence. Stations were selected with regard to physical resources - good harbour, water supply, firewood, local food supplies, availability of coconuts in the surrounding district, and the amenability of the people. The latter depended upon the tact, understanding and capacity of the European concerned, his liberality with trade goods and above all, the prestige which accrued from his presence.

6. Trade goods were exchanged for coconuts, while a few men were employed in boiling down the coconut meat. Shell, bêche-de-mer, ivory nuts, and small quantities of timber were also acquired for export. Trade goods were the medium of exchange for exportable produce, local food, labour and the use of the land. The arrangements worked satisfactorily so long as all the people in the local group shared in the material benefits. If discrimination was applied, trouble occurred. Some of the traders were simply shipwrecked or deserted seamen. One of these, John Renton remained living at Sulufou, North Malaita between 1868 and 1875 as a restricted adoptee of the chief. Renton did not engage in trade. He was tactful and taught the people many European techniques. His considerable prestige value, together with the presents he gave before leaving, constituted adequate material return for his life.

7. The labour traffic to Queensland and Fiji which had begun in the islands to the south-east in 1847 did not spread to the Solomons until the late 'sixties, and reached full pitch in the 'seventies and 'eighties. Trade goods, fire arms and liquor given not to the recruit, but to his relatives, friends and chiefs acted as material pressure on the community to disgorge its young men and women. This technique, combined with nefarious and vicious practices of capture, resulted in violent reprisals and counter reprisals in which white men, including resident traders and missionaries, were killed. This was a dangerous trade operated by ruthless Europeans from the relative safety of schooners. In it, settlement had no part to play. Indeed it militated against peaceful settlement by traders and missionaries.

8. Between 1863 and 1891, 46,387 natives of the Western Pacific were introduced into Queensland.¹ It is impossible to say how many of these were Solomon Islanders but a rough estimate has placed the figure at one half, of whom the greater proportion came from the central and eastern Solomons. Apart from the obvious effects of the trade - disease, depopulation, violence and racial hatred - many that returned had been considerably influenced by European modes of life. They had acquired wealth and considerable prestige; they were sceptical of the old social order and traditional custom; they had adopted European manners of dress and speech and become familiar with European money; they found difficulty in settling down into the old society of reciprocal obligations based on kinship.

9. Most of them returned fluent in pidgin English and this they were quick to turn to material advantage as entrepreneurs between their more primitive fellows and Europeans. Ex-Queensland labourers were prominent in many early land transactions with Europeans. There were other effects, too. The repatriation system was haphazard and while many labourers were simply dumped on strange islands or places hundreds of miles from their homes and left to shift for themselves, others expressed strong wishes against returning to their homes and were repatriated elsewhere. There they intermarried and settled and acquired interests in their wives' lands. The colonies of Malaita people living at Ugi and Arosi in San Cristobal today are descendants of repatriated labourers.

10. The precise date when dried coconut flesh or copra was found to be an economic export is not known. However the earliest alleged deed of sale between a European trader and Solomon Islanders dated 18th September 1871, refers to a "copra station" in describing the boundaries of the alleged sale. Published papers also indicate that copra was being exported from Ugi in 1880. It is therefore probable that the industry was developing in the 'seventies. With this, the commercial community became interested in permanent settlement. Four alleged sales were subsequently registered as having taken place in the 'seventies while thirty six claims were registered in respect of sales made during the 'eighties.

11. The development of the new industry was not the only reason for increased interest in permanent settlement. The British Government was being forced to show more concern in the Solomons; the labour traffic was being subjected to closer control; the presence of British men-of-war was a guarantee of security; Australian capital interests were entering the island trade; and competition between these and German and French companies which had acquired interests in land in the Solomons was developing. By 1893, when the legal framework of colonial administration was enacted, over fifty transactions had taken place and seven of these had been the subject of conveyances to other Europeans in which the profit shown was quite handsome. Six trans-

1. Myra Willard, "History of the White Australia Policy", Melbourne University Press, Melbourne 1923. Note p.176.

actions had taken place in the German Solomons, five of which were in the Shortlands and one in Lord Howe.

12. British policy in the Pacific up to the middle of the nineteenth century was based on minimum intervention governed by the supremacy of the Royal Navy, the ferocity of the inhabitants, the lack of obvious commercial resources and the disinterest of other powers. Developing missionary influence, the nefarious character of the labour traffic, the increasing numbers of British nationals engaged in the trade, the imperial and economic ambitions of the Australian and New Zealand colonies, particularly Queensland, all combined with the growing interest of other Powers, notably Germany, France and America, caused the breakdown of this policy.

13. The Pacific Islanders Protection Act was passed in 1872 and three years later, in 1875, the Pacific Islanders Amendment Act provided inter alia for the creation, by Order in Council, of a High Commissioner having jurisdiction over all British subjects throughout the Western Pacific. The Order in Council was not issued until 1877 and contained a very complete code for dealing with the misdeeds of British subjects, affording them the means of civil litigation, and bringing the general machinery into effect. It did not provide for control of the indigenous inhabitants except in the case of acts of war.

14. By 1880 the world wide race for a "place in the sun" had spread to the Pacific and the process of partitioning island groups had begun. In 1884, a Royal Commission reported² to both Houses of Parliament on the working of the Western Pacific Orders in Council. The Commission recommended their immediate overhaul and the provision to the High Commissioner of effective means of implementing their intention. No fundamental change in policy was recommended but the expansion of the interests of other powers resulted in 1886 in an agreement with the German Government based upon joint minimum intervention whereby Ysabel, Choiseul and the Shortlands passed under the protection or practical possession of Germany along with Northern New Guinea, New Britain and New Ireland, while Britain was to retain the Southern portion of New Guinea and the rest of the Solomons.

15. Prior to the establishment of the High Commission, British subjects in the Solomons were under the jurisdiction of the Royal Navy which in practice also exercised informal jurisdiction over Solomon Islanders. Naval captains were appointed as Deputy Commissioners and exercised both criminal and civil jurisdiction. This was the era of "Commodore justice" which the Western Pacific Order in Council of 1877 sought to end; but in transferring the jurisdiction over British subjects to the High Commissioner, it precluded any action being taken against native offenders. In any case, effective administration of the Order was impossible since administrative

2. "Report of a Commission appointed to enquire into the working of the Western Pacific Orders in Council and the nature of the measures requisite to secure the attainment of the objects for which those Orders in Council were issued." Command Paper 3905, Eyre and Spottiswoode, London. 1884.

arrangements were such that the High Commissioner had neither the staff nor the transport, and in the event the Royal Navy carried on its work.

16. Even when the Pacific Order in Council of 1893 provided the framework for a traditional colonial civil administration, the Royal Navy continued to provide assistance for specialised tasks of establishing law and order. The last major punitive action occurred in 1892 when Captain Davies in the H.M.S. "Royalist" checked head-hunting raids in the Roviana by shelling and burning every village in the lagoon and laying waste the fortified stronghold of Roviana island.

17. The main result of the Navy's work was the establishment of a semblance of law and order which facilitated settlement by traders and the extension of the work of the Melanesian Mission. Liaison between missions and traders and the Navy was close. Early land records from 1871 show that Royal Naval captains witnessed deeds of sale between Europeans and Solomon Islanders. In one case, published papers indicate that at the request of the High Commissioner, a naval captain in 1881 enquired into the alleged title of a European trader to lands at Ugi in the Eastern Solomons. In the northern Solomons, German warships were active particularly in the Shortlands area. In New Georgia, witnesses in the first Lands Commission, stated that a British warship hoisted flags on shore "to stop the Germans coming". These acts of annexation combined with naval activities against marauding natives and Europeans guilty of kidnapping practices taught the people that murder, internecine warfare, headhunting and other nefarious practices were punishable by depredation of their property - burning and shelling of villages, destruction of gardens, coconut and breadfruit trees and the levying of fines payable in large quantities of native money. Such actions were outside the scope of their experience and the preservation of their property and resources vis à vis Europeans, became identified in their minds with the giving up of traditional customs and practices.

18. With the establishment of the High Commission the question of registration of land transactions became an important issue. The nationals of other powers sought to effect registration at their respective consulates, and were usually obliged. The position in the case of British nationals was by no means clear although a few transactions were in fact registered by the Registrar-General of Fiji. In 1882 Sir Arthur Gordon's instructions to Commodore Erskine on land matters were as follows:-

"Your particular attention is directed to the question of whether land has been purchased by white men, and you will endeavour to ascertain the nature of any such agreements which have been entered into In the case of British subjects, you will inform them that these transactions will in no case be recognised by Her Majesty's Government, unless the papers are forwarded for registry. All such claims will be registered as a matter of course and the papers carefully preserved with a view to future

investigation, but it is not to be assumed that such registration conveys any guarantee of the title."

19. Sir Arthur Gordon's successor in 1883, fearing that registration would facilitate sales between Europeans and promote speculative purchases from natives, referred the instructions to the Colonial Office which ruled that the registration of these transactions would be liable to be construed as confirmation of them, by Her Majesty's Government, carrying with it some obligation to uphold them, and possibly give special protection to the purchasers. Accordingly in 1884 a notice was published in the Fiji Royal Gazette declaring that registration would not be permitted. Subsequently the Royal Commission of 1884 recommended in favour of registration and in 1886 permissive registration without guarantee of title was introduced.

20. With few exceptions, early land transactions had the following characteristics:-

- (a) The deeds of sale were drawn in a manner which it was obvious no Solomon Islander could hope to comprehend.
- (b) No legislation provided for such sales.
- (c) The consideration, which was not always unreasonable, though occasionally expressed in pounds sterling was invariably paid in trade goods including Snider rifles and ammunition.
- (d) Although "kings" and "chiefs" predominated among the vendors, some of the purchasers presumably with understanding of the social structure, attempted to include all "owners" of interests. (In these cases few claims to title were ever upset.)
- (e) The "sales", which usually specifically included growing trees, were outright and in fee simple.
- (f) Agreement of the vendors to the transactions were signified by marks, usually crosses. As the vendors were usually incapable of holding a pen, they were made simply to touch it. To fulfil the registration requirements, all deeds had to be witnessed by Deputy Commissioners who prior to 1896 were invariably commissioned officers of the Royal Navy, thus introducing an element of threat.
- (g) Descriptions of the area alienated were extremely vague except in the case of small islands sold en bloc.

21. Although a few Solomon Islanders had learnt something of European concepts of owning land while working in Queensland, the bulk of the population had little comprehension of sale in freehold to complete strangers as an irredeemable transaction. They had been used to European traders living among them and acquiesced in their

activities in return for presents of material value. Total alienation to someone who had no further obligation to them was foreign to their concepts. The true nature of the transaction was seldom appreciated until the trader carried out obvious acts of ownership, namely preventing the former owners from selling the coconuts to other European traders, paying only for the work of harvesting, refusing to pay for the nuts themselves, clearing the land for planting and more especially selling or bequeathing the property to other Europeans whom the people had never seen before. But the fault if there was one did not lie entirely with the Europeans for many cases occurred of sophisticated Solomon Islanders deliberately representing themselves as "owners" when they had no interests whatsoever in the land and indeed "selling" it to different Europeans. While the latter were generally slow to appreciate the concept of group interest in land, when they did grasp the point, they were so tenacious in its application, and Solomon Islanders so quick to realise the exploitable advantages, that land was frequently paid for several times over as successive groups came forward, claimed interest and said they hadn't received payment. Europeans with capital already invested, anxious for security at any price were relentlessly milked. In short, Solomon Islanders were no less guilty of sharp practices than Europeans. This went on for many years and even today, is still attempted. The law condones such practices because no arrangements are provided for adjudicating the interests claimed.

22. By 1890, the labour traffic to Queensland had virtually ceased; practically all islands had been annexed by the Great Powers and with settlement and capital investment increasing, the problem of British policy was becoming one of normal colonial administration. Minimum intervention had broken down completely and following a further series of reports and investigations, the Pacific Order in Council of 15th March 1893 set up the framework for colonial administration. The Protectorate was formally proclaimed by Captains of Royal Naval vessels at various places on all main islands, namely New Georgia, Guadalcanar, Florida, Malaita and San Cristobal during the winter months of 1893. The late Mr. C.M. Woodford, C.M.G., was appointed as the first Resident Commissioner in a temporary and acting capacity and arrived in 1896. Subsequently his appointment was confirmed and he remained as Resident Commissioner for eighteen years.

Direct Administration 1893 - 1920

23. In 1898 and 1899, the Protectorate was extended to the Santa Cruz group, and in 1900 by an agreement between the British and German Governments, Ysabel, Choiseul and the Shortlands were also included.

24. In order to prevent speculation among Europeans and to regularise the many transactions which had already occurred, Mr. Woodford gave early attention to the control of land. By Queen's Regulation No. 4 of 1896, it was provided that from after its coming into force, "no native or vacant land shall be acquired by a non-native", otherwise than was provided in this Regulation. Native land

was expressly defined as "land owned by a native". Vacant land was indirectly defined (Section 10) as that "being vacant by reason of the extinction of the original native owners and their descendants" (other than that purchased by non-natives bona fide and for value).

25. The Regulation provided that land for trading and agriculture could be purchased in freehold or leased from natives or in the case of vacant land, leased from the Government by non-natives, subject to the approval of the High Commissioner and subject to forfeiture and reversion to the native owners or lessors for non-performance of specified improvement conditions. It was specifically stated that the High Commissioner's approval "shall not be conclusive evidence of the right of the vendor or lessor to convey or lease." Thus without a guarantee, any title acquired under the Regulation could be no more than prima facie. In Section 4 it was provided that before confirming or disallowing provisional purchase of native land, the High Commissioner "by himself or his deputies" was to make "such enquiries as is possible with regard to the title of the proposed vendors and the fairness of the contract." Finally by declaring that all occupied native land not conforming to the regulation would be deemed to be held on lease, and Regulation forced the submission for approval of all transactions in freehold which had already occurred. Under this legislation the Government also purchased land from natives for public purposes.

26. In the event, the nature of conditions in the Protectorate at the time were such that enquiry could not have been thorough. In these circumstances the natives whose names appeared in the documents were not necessarily the true owners. Titles were thus very insecure, although the severity of the situation was mitigated somewhat by the provisions of section 11 under which the Court could order a bona fide purchaser, without notice of the claim of a true native owner, to compensate the latter while retaining the land.

27. The fact that the regulation provided that the High Commissioner could grant leases "on behalf of Her Majesty" of land being vacant, implied the control of vacant or waste lands being vested in the Crown. But the process by which vacant lands were to be determined was not defined.

28. In 1900, the idea of certain lands i.e. waste lands, being controlled by the Crown was extended. By Queen's Regulation No. 3 of 1900 and amended No. 1 of 1901, both of which were repealed and consolidated by No. 2 of 1904, waste land was defined as "land which is not owned, cultivated or occupied by any native or non-native person." The only occupation permitted of such lands was by Certificate of Occupation, granted in his discretion by the High Commissioner on behalf of His Majesty on application being made through the Resident Commissioner in a scheduled form. The Certificate fixed the annual rental, while a development clause provided for forfeiture unless a specific sum per acre was not expended within a term of years; minerals were vested in the Crown and resumption could be made of any part, subject to certain conditions, for public purposes. The legal

principle behind the issue of Certificates was that the Crown protected the occupier, but did not claim ultimate title in the waste lands of a Protectorate. The legislation did not, however, provide the means for determining what was waste land. Curiously enough the applicant in the scheduled form had to state that to the best of his belief, the land was in fact waste.

29. Following upon the establishment of the Protectorate, traffic in arms and ammunition was brought under immediate control. With the gradual extension of law and order, the institution of Burns Philp and Co. Limited's shipping service in 1896, the favourable labour position consequent upon the repatriation of labourers from Queensland and the diminishing traffic with Fiji, Australian interest in settlement and plantation development increased rapidly during the 'nineties and the first decade of the twentieth century. The Australian's experience of Commonwealth land policy encouraged them in the belief that the Protectorate Government would treat them with similar liberality.

30. Mission interest was also growing. The Roman Catholics returned in 1898. The Methodist Mission came to the Western Solomons in 1902. The South Seas Evangelical Mission which had been founded in Queensland in 1886, came to Malaita in 1904 when the last of the labourers were repatriated. All the missions sought land for permanent stations and two of them became closely associated with large planting interests.

31. Meanwhile district stations had been opened at Gizo in 1899, Faisi (Shortland Is.) in 1906, Auki in 1909 and Aola on Guadalcanar in 1914. Kira Kira and Tataba were not opened until 1918, while Vanikoro was opened only in 1923. Administration was severely direct. As each island was brought under control, a veritable rush occurred by Europeans to purchase coastal lands suitable for plantation purposes. Freehold land was regarded with almost superstitious reverence as opposed to a Certificate of Occupation for 999 years at a peppercorn rental. Native leases were regarded with disfavour. Mr. Woodford recorded on several occasions how willing Solomon Islanders were to sell land, and his oft repeated statement that within fifty years he believed few Solomon Islanders would be living, indicates that there was little belief in the peoples' future or the necessity for conserving their lands.

32. The following figures show the amount of land taken up by 1913:-

Title	No. of holdings	Acreage
Freehold	199	151,789
Crown Leases	43	18,226
Native Leases	24	827
Occupation Licence (waste lands)	10	227,114
Crown land in occupation by Government	4	1,250
Crown lands held by Government and waiting lease.	5	3,250
	285	402,456

All these lands were situated on the coasts or else were small islands. Of this total nearly three hundred thousand acres of alienated land, or more than two thirds was held by three companies as follows:-

	<u>Acres.</u>
Levers Pacific Plantations Pty. Ltd.	231,711
Burns Philp & Co. Ltd. or its subsidiaries	48,339
Malaita Co. Ltd. (subsequently taken over by the Fairymead Sugar Co. Ltd.)	9,704
	<hr/> 289,754 <hr/>

33. Freehold land was acquired by direct negotiation between the prospective purchaser and the native "owners" and when both sides were satisfied and the deed of sale drafted and signed, it was forwarded to the Resident Commissioner for transmission to the High Commissioner for approval. Early minute papers indicate that examination of the precise extent of the native owners' claim was sketchy. Speculation in freehold land was considerable. In 1902 a freehold planted and fully bearing property changed hands at £30 per acre. Mr. Woodford referred to certain Europeans as "nothing but company promoters and concessionaires". He sought to control this, but was more concerned that the tiny revenues of the Protectorate were deriving little benefit from land sales, and that only a few acres purchased by Government from the natives had been leased.

34. Accordingly, it having been agreed with the High Commissioner that it was too late to declare all lands not alienated to be Crown Lands, sales in freehold were stopped in 1910 and consideration given to new legislation. Meanwhile Europeans were being encouraged to lease land, which the Government purchased from native owners, for 99 years. It was implied policy that the purchase by Government was antecedent to the land being leased. In actual practice the prospective lessee selected the land, negotiated the purchase price on behalf of the Government, which was usually standard, and then applied to the Resident Commissioner for the lease. If the latter agreed in principle, the application was recommended to the High Commissioner. Enquiry by District Officers was inevitably subsequent and cursory. In many cases the prospective lessee acted as the agent of the Government and paid over the purchase price to the native owners. No survey was undertaken. Documents were drawn up and executed later. In these circumstances, it is not surprising that confusion resulted or that the native owners were under the impression that they were negotiating not with the Government, but directly with private Europeans.

35. Three of the Certificates of Occupation over waste land were issued for 999 years and one of these, held by Levers, covered various areas in the Western Solomons and amounted to approximately 200,000 acres. The history of the acquisition of this Licence must be briefly described since subsequently it was enquired into by the first Lands Commission, and it has had considerable effect upon land

matters in the Western Solomons. Indeed, as will be seen later, it has had some bearing on the work of this Commission. During 1886 representatives of the Deutsche Handels and Plantagen Gesellschaft der Sudsee Inseln zu Hamburg annexed on behalf of the German Empire and purchased from local "chiefs" various lands in Treasury, the Shortlands, Kolombagara, Gizo, Guadalcanar and northern Ysabel.

36. In 1900, following upon two years of preliminary negotiations, the Pacific Islands Co. was given permission to select blocks of waste lands up to 200,000 acres. In that same year Captain F.L. Langdale in the "Rob Roy" accompanied by the Resident Commissioner selected lands on behalf of the company in southern Choiseul, Manning Straits, northern Ysabel, western New Georgia, Kolombagara and in the Hawthorn Sound area. The Pacific Islands Company's interests were then taken over by the Pacific Islands Company (1902) Limited, which having purchased the interests of the German company, surrendered them, and a Certificate was drawn up including certain of the German surrendered lands, and lands selected by the "Rob Roy" expedition. The Company did not go into actual possession of the concession or develop any of the lands granted under it. In 1905 the concession was acquired by Levers Pacific Plantations Ltd. At that time this Company was acquiring large areas of freehold land which it started to develop immediately. The certificate of the Pacific Islands Company's concession was surrendered and following upon protracted negotiations, was executed in 1914. At that time it was recognised by both Levers and Government that this certificate was not final and negotiations continued for a new certificate, which would exclude certain lands in exchange for others.

37. About this time too, the extension of law and order began to have an unexpected effect upon Solomon Islanders living on the larger islands. Hitherto, fear of other tribes caused the bulk of the people to live in the bush behind the coasts, and to visit the beaches at irregular intervals for fishing, gathering coconuts and other purposes. In the majority of instances it was customary to cover up all signs of such activities; fires were kept low and tracks erased and care was taken to disturb the bush as little as possible for fear that enemies would know of their existence. But District Officers and missionaries, in order to facilitate their work and to speed the civilising process, were persuading them to form large villages on the coasts. They were also encouraging them to extend their coconut groves and to make copra for sale to traders. By 1914 the move to the coast had begun to satisfy newly created needs and wants, and the natives entered the competition for coastal lands. This was a gradual process which took place over a period of years; it was rapid in some places, such as New Georgia, while in Malaita, it was long delayed and indeed, has only in recent years gathered full momentum.

38. The Solomons Land Regulation (King's Regulation No. 3) was enacted in 1914. In repealing the regulations of 1896 and 1904 freehold sale was abolished, although rights and obligations acquired under the 1896 and 1904 regulations were to remain in full force. A

leasehold system of both native and public land was instituted, namely cultivation leases for up to 99 years subject to improvement conditions, grazing leases for periods up to 21 years, and building leases. It was provided, that native land, which is not in cultivation nor required for the future support of natives, could be sold to the Government. Native land could be leased by the Resident Commissioner to non-natives, if the consent of the owners is first obtained and if the land to be leased is not under cultivation nor required for the future support of natives. Rents were to be collected by the Resident Commissioner and paid to the native owners. The regulation defined three types of land, viz:-

"Native lands:- land owned by natives or subject to the exercise by natives of customary rights of occupation, cultivation or other user.

"Private land:- land owned by non-natives in freehold.

"Public land:- all land not being native land or private land."

The definitions of public and native land were designed to allow waste or vacant lands, i.e. lands not owned by natives or not subject to the exercise by natives of customary rights of occupation, cultivation or other user - to be recognised as public land. This was deliberately implied, but in practice the tendency has been to avoid assuming land to be public unless it was bought.

39. Rent based on the fee simple value of the land could be applied on an incremental scale, for 21 years in the case of a grazing lease, and the first 33 years of a cultivation lease if the land was uncleared. Provision was made for re-assessment at the 33rd and 66th years. Implied covenants to be applicable to every lease were set out, and the right of an outgoing leaseholder to the value of his improvements was recognised. The administration of the regulation was vested in the Resident Commissioner. With a few amendments, this Regulation is still in force.

40. King's Regulation No. 6 of 1918 (Cap 50) provided for the setting up of a Land Registry office in the Protectorate. This regulation replaced the arrangements under the Proclamation of 8th November, 1886, permitting registration in Suva, and those under King's Regulation No. 11 of 1915 providing for registration at Tulagi. The Regulation made compulsory the registration of all instruments relating to land including judgments of the Courts. However it was specifically stated that registration conferred no validity of title on any instrument, which it did not already have. The system was merely a registration of deeds which gave priority over subsequently registered instruments affecting the same land. The Regulation also provided for the transfer to the Registry Office, of copies of all entries in the Register of Land Claims, in the office of the Western Pacific High Commission. This legislation is still in force.

41. King's Regulation No. 4 of 1918 (since replaced by Part II

of Cap 49) provided for the acquisition by the Government of land for public purposes.

42. From 1914 onwards the first semblance of developing "land consciousness" could be detected among Solomon Islanders. The following factors accounted for this:-

- (a) Direct sales in freehold had taught the people that land was a negotiable asset which could be sold for cash and could be used as a means of acquiring boats and coveted trade goods.
- (b) Disposal of lands by lease conserved the asset and produced a small yearly cash income, which after certain periods of time increased.
- (c) Awareness was dawning that participation in the European economy by planting coconuts and making copra resulted in a considerable return.
- (d) On moving to the coasts, it was found that much of the valued coastal land had been alienated, either by earlier migrants in good faith, or else by unprincipled and "clever" natives, who had purported to be "owners", or else by Government under the Waste Lands Regulation.
- (e) Movement among people generally was freer and awareness of similarity of interest and rights was growing. Groups formerly at enmity were describing themselves as "one people" and claiming large tracts of land while others were expanding their claims, like a tontine, to the lands of people who had died out.
- (f) Religious sectionalism was causing former peaceable groups to split wide and dispute respective interests in land which was formerly held jointly. Land disputes between Church and Commerce were taken up by the people themselves.
- (g) The people were becoming articulate and were realising something of the meaning of "Pax Britannica". More especially they found that paternalism meant that District Officers were prepared to consider land complaints against Europeans.
- (h) They were learning that the clearing and planting of land by Europeans from which all but paid employees were excluded, signified total alienation and the extinction of all native interest.
- (i) They were seeking to establish a right of unlimited challenge to the land transactions of a former generation.
- (j) There was fear of signing any document in case it represented the alienation of land.

- (k) Because law and order had put a stop to so many activities, men were giving more attention to the use of land (formerly the principle concern of women) and this was stirring their interest. In particular increased security of life and property enabled firm claims to be made to marginal lands hitherto not thought about.

43. Throughout the Protectorate, land consciousness manifested itself in claims against Europeans and the Government in respect of coastal lands alleged to have been improperly alienated. Many of these were satisfied by Europeans paying additional sums to natives who claimed they had an interest in the purchased land but had never before been negotiated with or paid. Not only did the doubt, whether all the true owners had been dealt with, hang perpetually over the purchaser's head: it also affected bona fide transfers from the original purchaser. In particular it was while negotiations were going on between Government and Levers in respect of the issue of a new Certificate of Occupation, and at a time when Levers were intensifying their clearing and planting programme in western New Georgia, begun in 1908 on the lands acquired under the existing Certificate, that doubt began to arise as to whether or not the lands included in the Certificate were in fact "waste" lands. It seemed certain that almost all these lands were now claimed by the local people. Extensive areas in the Russell Islands, also acquired by Levers, were similarly disputed. Yet another major issue was the claim by the Malaita Company to have purchased in western Koio, Malaita, the freehold of a coastal area with a frontage fifteen miles long and a mile inland, thus excluding the people living inland from all access to the sea.

44. In consequence of these and other claims a Lands Commission was appointed "to inquire into and report upon such specific cases as may be submitted by a deputy appointed on behalf of the natives, of claims to land, including claims to native rights of way, or rights over land, including customary rights, claimed by natives over any land in the British Solomon Islands Protectorate now held by non-natives, namely -

- (a) lands purchased by non-natives;
- (b) waste or unoccupied land (or land assumed to be unoccupied) held under Certificate of Occupation;
- (c) lands leased under King's Regulation No. 3 of 1914 (or under the previously existing Regulations)."

The Commission was appointed under the Commissions of Enquiry Regulation. (Cap 36).

45. The first Commissioner, Captain G.G. Alexander was appointed late in 1919 and left for Africa in the middle of 1920. Captain Alexander applied the technique of compromise between the parties, without formal enquiry, with the result that the majority of claims

had to be reheard. His successor, Mr. (now Sir) F. Beaumont Phillips (until recently Chief Justice of New Guinea) undertook this task, and completed the hearing of specific claims in 1924. Of the total of 69 separate claims by Solomon Islanders which were heard, seven were disallowed, 17 succeeded completely and 45 were the subject of decisions in partial settlement. The effect of the decision in the Levers' cases was that approximately 45,000 acres of the original 200,000 were declared to be occupied native land and handed back to the owners. In the claims against the Malaita Company, certain areas were surrendered to the former owners and provision made for suitable access to the sea. Provision was made for the findings to be validated by King's Regulation No. 8 of 1923.

46. The settlement of the various claims placed before the Lands Commission has had considerable implications which in the light of the enquiries carried out by the present Commission, are only now fully apparent. In the first place, despite the representations of Mr. Phillips in his memorandum of 5th April 1921, the Commission was permitted to deal only with specific outstanding claims. But as the Lands Commissioner pointed out, the unsatisfactory nature of past and present legislation, together with the fact that Solomon Islanders seldom appreciate that alienation has occurred until acts of ownership, namely survey, clearing and exclusion of trespassers are carried out, all combine to conceal a large number of potential claims, besides creating new ones. Finality could never be reached, and recent events, notably the Tarapaina land case and the Muvia claim, apart from dozens of others, have simply proved the truth of the Lands Commissioner's statements made 35 years ago. Not only is it now necessary for many outstanding claims to be heard, but it is reasonably certain that further claims can be expected, as survey and development proceeds. Since less than a quarter of all alienated land has been cleared or is in use, the areas likely to be subject to claim in the future may still be considerable. Furthermore, Mr. Phillips encountered acute difficulty in obtaining satisfactory evidence thirty five years ago. The task today is almost an impossible one. Apart from the fact that tenure is thus insecure, it is a moral issue whether the Government should continue to survey on the basis of the doubtful and sketchy plans and descriptions contained in so many of the old deeds, and charge fees without any adjudication and the ultimate registration or guarantee of title. The holders of the alleged titles are being persuaded into a false sense of security.

47. Secondly, the Commission heard a number of what were referred to as "paper" claims. These were claims submitted by the deputy for the natives on the assumption that the natives would dispute any non-native claim to land allegedly bought prior to Protection and which, except for a brief space of time, were never occupied by white men. Claim No. 41 at Wanderer Bay, Guadalcanar, was an example of this. The effect was that the people were encouraged to claim land in which they had exercised no interests and which they had never "thought" about previous to the claim being made. This has fostered the notion that all unalienated land or land improperly alienated must be native owned regardless of whether or not any interests are exercised.

48. Thirdly, in the case of the claims against Levers, the declaration that certain lands, notably in south eastern Choiseul, western Ysabel and western New Georgia were not in fact waste lands has merely served to persuade the unsuccessful claimants elsewhere to persist in their claims. Because Levers have failed to develop more than a small fraction of the vast lands they retained, combined with the fact that the claimants who were successful make little or no use of the lands which were returned to them, merely encourages this persistence. In recent years squatting tactics have been employed.

49. In brief the first Lands Commission has served, as no doubt this Commission has done also, to develop the land consciousness which it reportedly found. The terms of the Lands Commission were such, that they represented a swing from a land policy which virtually disregarded native interests, believing Solomon Islanders to be a dying race, to one which appeared to place their interests in the forefront with apparent disregard of the wider aspects of good land tenure and public policy generally. The result is that today the Protectorate Government tends to be hamstrung by the popular belief that all land which is not alienated land must be native land. Both development and resettlement of over-populated groups are held up because valuable resources have been tacitly abandoned to the native "owners". Land consciousness has done the rest, and soon it may be too late to remedy the situation.

50. It is easy to be wise after the event, but inevitably the question arises: Why were steps not taken to set up a Commission, similar to the one in Fiji, charged with the responsibility of adjudicating all land interests including those of Solomon Islanders, and with powers to declare those lands, the "owners" of which were deceased or to which no customary or other title attached, and not required by Solomon Islanders for their own use, to be vested in the trust of the Crown as ultimus haeres, for the future use and benefit of all communities.

51. In fact, such a policy was the subject of extensive discussion between the Resident Commissioner and the High Commissioner during the first ten years of this century. In 1912, the draft land legislation forwarded by Sir F.H. May, then High Commissioner, provided for the grant of powers to the Resident Commissioner, to effect a land settlement of non-alienated lands in terms of "native", "vacant", and "waste" lands. The Colonial Office preferred that this should be effected by separate legislation. It was never proceeded with presumably, because by then the Protectorate Government became involved in the native claims to specific alienated lands. However in 1917, the draft Commission to settle these claims which was forwarded to the Colonial Office provided for enquiry into and report on -

- (a) any claims by natives to or in respect of any lands in the Protectorate; and on the validity etc. of any documents on which any claims to land within the Protectorate were based;

- (b) the working of the Solomon Island Land Regulation of 1914 - with any recommendations that might seem expedient for the amendment thereof; and
- (c) generally to enquire into and report on all matters connected with tenure and disposal of land in the Protectorate.

Thus, implicit in this, was the recognition of -

- (i) the need for adjudication in respect of all claims of Solomon Islanders and Europeans to all land; and
- (ii) the unsatisfactory working of the legislation which is still in force.

But although the Colonial Office agreed that the appointment of such a commission was desirable, it would have seriously delayed the settlement of the specific claims. Accordingly it was on the basis of a limited commission with which the Government proceeded.

52. The matter was dropped and does not appear to have been raised until after the second World War. From the papers which have been available to this Commission, the following reasons are advanced for the failure to have come to grips with the essential land problem of the Protectorate:-

- (a) Solomon Islands society with its atomised groups did not lend itself to definition as did Fijian society, which at the time of annexation had a more clearly defined chiefly and tribal structure.
- (b) Neither at Tulagi nor at Suva was there any real belief in the future of Solomon Islanders as a race. This is evidenced by the obsession with large scale European plantation development and the provision of land and labour to that end, to the exclusion of all else.
- (c) The inability of the economy to support an expansive land settlement scheme.
- (d) The alarming state of affairs which was revealed by events leading up to the appointment of the first Lands Commission which as time wore on, itself proved to be a very expensive operation.

53. It is necessary to emphasise in concluding this section a vital point on which much misunderstanding has occurred in the past and in fact still exists, and which, unless clearly appreciated, is the one on which the prosecution of a new land policy can founder. Land Commissions have for many years been traditional panaceas in most Colonial territories. Broadly they take one of two forms: either they are directed towards settling titles in alienated lands vis à vis native claimants or they are concerned with the settlement of customary

titles between natives generally. Particular emphasis is given to this, because not only are respective proposals for Land Commissions often in conflict with one another, but experience of the present Commission has shown that the respective tasks are almost constantly confused in general policy discussion. It will be a thesis of this report, that it is fundamentally unsound to approach the problem from these two separate angles.

Indirect Administration 1920-1941

54. With the exception of regulations controlling the acquisition of lands by non-natives, practically no legislation was enacted prior to 1920 which was designed to assist the progress of Solomon Islanders. In that year the Native Tax Regulation was passed, followed in 1921 by the Labour Regulation. In 1922, the first Native Administration Regulation was enacted and this provided for the appointment of village and district headmen and the duties they would perform. With few amendments, this regulation provided the legislative framework of native administration until 1947, when it was replaced by a further regulation providing for the establishment of a system of Local Government.

55. The 'twenties saw the Protectorate reach the frontiers of its short-lived land boom. In the year 1923-24, copra production exceeded 18,000 tons, and though in 1926-27 the figure was 22,316 tons, this has never been exceeded. With the exception of the years of the second World War and nine years thereafter, the production figures have remained in the vicinity of 20,000 tons. No secondary cash crop of any significance was established though several were attempted. Apart from the entry of Messrs. W. & R. Carpenter Ltd. which over a period took up some 5,758 acres for plantation development, the European economic framework had been cast by 1920. Meanwhile Solomon Islanders had begun to plant extensive groves of coconuts.

56. There were several factors which contributed to the limitation of European development. Taxation and general costs had risen after the war. Labour, which had always been in short supply, was proving more difficult and costly to obtain. Lessees of properties from both the Crown and Solomon Islanders were unable to meet the high rents. This particular problem caused widespread concern throughout this period. When freehold sale was abolished and the Crown began to purchase land from the Solomon Island owners at 2/- per acre, the rental scale which was to provide Government with much needed revenue, was fixed on the basis of -

First five years - minimum rental of 3d. per acre.

Second five years - minimum rental of 6d. per acre.

Third five years or at the discretion of the administration, the 11th to 20th year - minimum rental of 3/- per acre.

Remainder of first 33 years - minimum rental of 6/- per acre.

These rates applied to all land in the lease - inferior land not being excluded.

57. The scale assumed that the buoyant pre-war copra market would continue, that properties would be yielding in the seventh year and that they would reach full yield by the 11th year. In the event, the price of copra started to fall in the middle 'twenties, increased costs prevented further development, yield expectations were disappointing, and many properties failed to bear at the seventh year. Indeed some were scarcely bearing at the 11th year. In consequence of representations of the planting interests, a moratorium in respect of Crown leases was granted from 1923 to 1925 and was extended to 1926. A reduced scale of rents was applied to Public and Native leases from 1st January 1927 and this scale was current until 1955. Apart from a short period between 1930 and 1931 the price of copra remained uniformly low until the outbreak of the second World War. Rents were continually being remitted during these years. The large companies were financing the smaller planters many of whom were heavily in debt; foreclosure was common while many individuals had to surrender their leases altogether.

58. The position of native leases current before 1st January 1927 was different. It was suggested in 1926 that the Crown should purchase outright all such properties, at that time amounting to some 10,642 acres (the unimproved value of 6/- per acre being mentioned) and re-lease them to the lease holders at the new rental rates. To this, the Colonial Office could not agree; nor could it agree to the proposal that Government should act as an intermediary between the lessees and lessors in securing a reduction of rents agreeable to both parties. It was ruled improper to effect financial assistance to the planters by interfering with existing contracts entered into for and on behalf of the natives. Instead, Government provided rent relief for holders of native leases by paying a portion of the rent between the 11th and 14th years. This mitigated the position somewhat, but with the depression in the middle 'thirties, many planters were forced to surrender their leases, because the rents could not be met after the 14th year. Since no market existed for such properties, valuable unexhausted improvements reverted to Solomon Island owners, who in many cases failed to work them. The properties became derelict. In 1923, a total of 14,318 acres were held under native lease and by 1937 the figure had dwindled to 5,347 acres. Land consciousness received further stimulation.

59. During these years, the Lands Department remained static. In 1913 a Crown Surveyor had been appointed to the Resident Commissioner's department. In 1915 the Survey Regulation (unamended to the present day) was enacted. In 1918 the Crown Surveyor was appointed Commissioner of Lands and Superintendent of Public Works. In 1919 the holder of the post was made Registrar of Lands. At no time up to 1941 did the staff exceed the Commissioner, a Crown Surveyor and a draughtsman clerk. From 1919 to 1930 the Department was almost solely concerned with the survey of the findings of the Lands Commission, the registration thereof and the survey and registration of such alienated land in isolated pockets as could be managed. From 1930 to 1941, the Department suffered persistent staff difficulties, which, together with financial stringency resulting from the world depression, further

limited the amount of survey work which could be undertaken. While officers of the department repeatedly advocated a variety of measures to remedy the position, no clear formulation of policy was undertaken.

60. From 1920 onwards, District Officers had to deal with an increasing number of land disputes between Solomon Islanders. The loss of so many district records during the war makes it impossible to provide firm figures as to numbers, but it is estimated that by 1939 they had reached the vicinity of 20 to 30 per annum. Different methods of settlement were adopted. These appear to have been as follows:-

- (a) by Deputy Commissioners effecting arbitration and reconciliation under section 34 of the Pacific Order in Council 1893;
- (b) by Deputy Commissioners hearing a civil action under section 20 of the Pacific Order in Council 1893;
- (c) by District Officers effecting informal arbitration in their administrative capacity;
- (d) by headmen effecting informal arbitration in their administrative capacity.

Apart from the lack of any clearly formulated procedure for the settlement of disputes or legal backing to procedures (c) and (d), the greater proportion of the judgments and decisions have been lost, and this has facilitated the re-opening of cases.

61. During this period certain natural resources were made the subject of control. King's Regulation No. 6 of 1920 (Cap 57) provided for the control of trochus shell fishing though the question of exclusive interests was not mentioned. King's Regulation No. 9 of 1913 (Cap 58) which had provided for the acquisition of timber licences by non-natives from natives, was amended by King's Regulation No. 12 of 1922, which enabled the Resident Commissioner to acquire rights over stands of timber upon payment of compensation and grant concessions to remove such stands. Again no regard was paid to the question of interests, except that a penalty was provided in the event of a native making false representation of ownership. Finally, following upon a mining area being declared at Gold Ridge, Guadalcanar, and mining licences being issued in January 1937, mineral resources were controlled by King's Regulation No. 15 of 1940 (Cap 53). This legislation reserved all minerals to the Crown and provided in detail for their administration. Powers under the Regulation were vested in the Resident Commissioner. The Commissioner of Lands was to be a member of the Mining Board, and in practice, the Lands Department has administered the Regulation. A little gold was mined in the area before and after the Pacific War and the fact that mineral resources were reserved to the Crown and "land owners" were paid nothing was not lost on the people of Guadalcanar and Malaita.

62. To conclude this section, brief reference must be made to certain unrelated political events which indirectly reflect conditions in the Protectorate. As a result of representation by the European community an Advisory Council was constituted in 1923. This consisted of European officials and non-officials. Despite further representation by Europeans its constitution was not widened until after the Pacific War.

63. Following upon the murder of a small police patrol in Guadalcanar, and Mr. District Officer Bell and his cadet Mr. Lillies, together with their large police patrol, at Sinerago, Malaita in 1927, Sir H.C. Moorhouse reported on conditions in the Protectorate. This report dealt in detail with the difficulties of administration, and indicated certain lines on which basic services could be improved, notably in the fields of district administration, labour, land tenure and medical services. With the exception of those on land tenure, the recommendations were accepted in principle by the Government, but with the depression it was not until the late 'thirties that any tangible results were to be seen.

64. By then ad hoc experiments were being carried out in the establishment of a wider system of native administration by the formation of native councils and courts consisting of headmen, chiefs and elders. They were started in Savo, Florida, north Malaita and Ysabel. The shape of things to come was seen in the Fallows Movement which began among the people of Ysabel and Florida. This movement, political in character but possessing many of now familiar cult aspects, was directed towards obtaining a "parliament" and improved wages and conditions. The movement collapsed with the withdrawal of its initiator, a European missionary.

The Pacific War 1941-1945

65. With the outbreak of the war in the Pacific in December 1941, the majority of the European population was evacuated and operation of the plantations came to a standstill. Those who remained in the Protectorate included such staff as was essential to the Government and the war effort, which included a number of plantation owners and managers and a handful of missionaries. These retired to strategic positions in the hills of the different islands and operated intelligence and guerilla units. The people evacuated their coastal villages and went back to the hills. Solomon Islanders both as civilians and members of the B.S.I.P. Defence Force, generally displayed outstanding loyalty and much courage during the Japanese occupation. A small proportion of the Chinese population were evacuated to Sydney but the majority were sent to San Cristobal. The Japanese occupied the Shortlands, Choiseul, Vella Lavella, New Georgia, the Russells, Florida, Guadalcanar, and the northern tip of Malaita in varying degrees, confining themselves mainly to the coasts, strategic harbours and landing places.

66. Following upon Allied landings in Guadalcanar and Florida in August, 1942, land battles were fought on all occupied islands

while air and sea battles were waged in the vicinity of every island from Tikopia to the Bougainville Straits. There could have been few Solomon Islanders who did not see something of the war or the Allied forces. Though the war had moved far to the west by 1945, the Shortlands and western Choiseul remained occupied to the end and it was in these areas where the privation of the people was greatest and morale at its lowest. The Santa Cruz, San Cristobal and Malaita districts remained under the direct control of District Officers throughout the war. In almost all other areas with the exception of the Shortlands, District Officers retained a measure of control and influence. As the position improved, administration was gradually re-established. In 1943, headquarters were removed from Auki to Lunga, Guadalcanar and in the following year to Point Cruz, which became the site of the new capital.

67. Land affairs were of small importance during these years. However due to the courage and foresight of Mr. A.H. Wilson, then Commissioner of Lands, the Lands Registers which were irreplaceable, were shipped to Australia. Other departmental records, including survey plans, were however lost. Although Mr. Wilson was able during the war to build up a proportion of the lost records, by securing access to copies of official survey plans, the pre-war position is still not yet retrieved.

68. By King's Regulation No. 2 of 1943 (Cap 52) a rent moratorium was instituted for the period of military occupation in respect of all leases and sub-leases. This was applied from 10th April 1942 to 1st April 1948.

69. Plantations having been established on coastal flats, about harbours and along good sloping coral beaches, a great many were occupied by the enemy, and were subsequently fought over and converted into Allied bases. It is estimated that one fifth of the planted areas and a considerable proportion of the permanent buildings were destroyed or irretrievably damaged. No war damage compensation was subsequently paid.

70. The war and the allied military occupation which followed had the most profound effect upon Solomon Islanders. This was mainly responsible for the post-war discontents and changed attitudes towards land. The reasons for this were as follows:-

- (a) Considerable sums of money were acquired by selling curios, vegetables, ivory nut leaf and other resources to Allied servicemen who paid generously but perhaps unwisely. The wages paid in the Labour Corps (Pioneer Companies) compared unfavourably with the sums paid for such goods.
- (b) Allied servicemen were generous with wartime property. Dumps were scavenged for materials of all kinds. This was a new experience for Solomon Islanders and new concepts of wealth and property were developed.

- (c) Allied farming units demonstrated the apparent ease with which mechanised equipment and tons of fertiliser, without regard to cost, could clear the jungle and produce many acres of crops in a few months.
- (d) Conversations with servicemen taught Solomon Islanders something of the nature of the American distrust of colonialism. Subsequently the fear of the "Colony" came to underlie all distrust of Government motives.
- (e) Irresponsible enthusiasm of servicemen who interested themselves in the Protectorate's natural resources stimulated Solomon Islanders' already exaggerated concept of their value.

71. These, together with other factors, all combined with the cataclysmic events to cause deep psychological shock resulting in disillusionment with the immediate past and fear of the future. This manifested itself in a cult situation which on the one hand sought to re-establish the mysticism of ancient and half forgotten custom, and on the other, promised adherents unbelievable wealth and worldly success by the simple adoption of outward material behaviour patterns, which eventually took on a magical significance. This was the Marching Rule movement, which originating in the B.S.I.P. Labour Corps on Guadalcanar in 1943, was started in Ariari and Small Malaita in 1944, and by 1945 had spread to the rest of the island, Guadalcanar, Florida and elsewhere.

The Post War Period.

72. The events of this period are widely known and therefore only brief reference will be made to them. The rehabilitation of the Protectorate has proved to be difficult and tortuous. The high hopes for mining, agricultural and forestry development have not yet been realised, and the economy is still dependent upon the single cash crop, copra, which only recently has reached pre-war production figures.

73. From 1946 to 1949 the Marching Rule movement on Malaita, Guadalcanar, Florida, Ysabel and San Cristobal, which prevented labour from offering for the plantations, virtually brought the economy to a standstill. By 1950 however, the movement was largely discredited. In Malaita, however, in 1950 the Federal Council movement, placing more emphasis on politics, took over the mantle of the Marching Rule but did not spread in an active form to other islands. By the end of 1953 the position had sufficiently improved for Government to set up the Malaita Council, since when the political position has continued to improve steadily, although for many Malaitamen the return to reality has been painful.

74. The pre-war experiments in local Government were advanced with some speed between 1943 and 1946, by which time sub-district councils and courts had been established in most islands. The councils

were validated by King's Regulation No. 2 of 1947 but political events suborned those in the Malaita, Central and Eastern districts, and they collapsed. They had been hastily conceived and badly constituted. Subsequently they were reformed in the settled areas between 1948 and 1950 and have since been reconstituted under King's Regulation No. 10 of 1953 which revised Local Government structure.

75. Post war land policy has been directed mainly towards the establishment of the present Commission. As part of the Ten Year Development Programme, a proposal was made in 1946, that a Lands Commission, operating on the lines of the Fiji Commission but divided into two parts, should be instituted. In the first part it was intended that the Commission should examine the present land policy in the Protectorate and draft a new Land Regulation to meet existing local conditions. In the second part it was proposed that native land boundaries should be recorded and the extent of land, the owners of which had died out, should be demarcated. This was to be anterior to the preparation of clearly defined plans for mining, forestry and agricultural development and was expected to take not less than seven years. The cost was then to be £40,000. In 1949, it was agreed that the major tasks of Part I should be to study native custom, to codify it as far as possible and draft legislation to control unowned land. By then however, political conditions were such that it was decided that the scheme should be shelved.

76. The appointment of a new Commissioner of Lands, directed attention once again to the confusion of policy in respect of alienated land. The point was made that arrears of survey, due to lost records, amounted to 587½ miles of straight line boundaries or approximately 18 man years' work. The question of a successor Commission to the 1919-1924 Commission was also raised, and conflict between the functions of the two proposed Commissions developed. The cost of defraying outstanding survey work was estimated at £A63,087. It was considered in Suva however, that the work was not urgent, and having regard to the cost and the difficulties of obtaining survey staff, the proposal was dropped.

77. In 1950, political conditions having improved, the question of the earlier proposed Lands Commission was reconsidered and a scheme providing for Part I was approved in 1951. Because of staffing difficulties it was not started until May 1953. More than forty years have therefore elapsed since the first formal proposal was made to enquire into native land tenure.

78. Following the ending of the rent moratorium on 1st April 1946, a number of Public and Native leases, together with improvements thereon, reverted to the Crown and the native owners, because the leaseholders either could not afford the rents or else preferred not to resume them. Certain companies, notably Burns Philp & Co. Limited, and W. & R. Carpenter Limited, did not re-establish their plantation and trading interests. Initially some of their properties were leased but eventually they have been sold. Smaller companies have done the same. Thus a considerable re-disposition of alienated lands has occurred since the war. Solomon Islanders have exercised

considerable persistence in trying to acquire both public leases and freehold. In the case of the former, a number of properties were made available by Permits to Occupy under section 6 of Cap 49. The arrangement did not prove altogether satisfactory. Under Queen's Regulation No. 14 of 1955, Solomon Islanders can now lease public lands. As regards freehold properties, difficulties arose because the Solomon Island land holding unit, whether family, line or village community had no legal entity in the Protectorate law. In the one case in which a transaction was successfully completed, (Simbilando) the land was conveyed to the Vella Lavella Native Council (a body corporate under section 13 of Queen's Regulation No. 10 of 1953) to hold in trust for the purchasers, the people of Eduale village.

79. The Lands Department was separated from the Works Department in 1945. A Commissioner was in charge off and on from the end of the war until 1951 but the shortage of staff, and the lack of any continuity, together with the absence of agreement on a Protectorate lands policy, limited the Department to reorganizing what records it had, the survey of the new Capital, the grant of immediate leases, and the maintenance of day to day registration of deeds, etc. From 1951 to 1956, there was no Commissioner of Lands, while between 1951 and 1953 there was not even a surveyor. The Department operated on a care and maintenance basis. In 1954, a Committee was appointed by the High Commissioner to enquire into the leasing and renting of Public and Native lands. The report revealed deficiencies in the administration of current legislation, recommended the immediate appointment of a substantive Commissioner of Lands, proposed certain interim measures to remedy the position, and advocated the early overhaul of current legislation. Interim measures were adopted, and in 1956 a new Commissioner of Lands assumed duty. An expansion in the establishment of the Department was also approved.

80. The administration of native lands, where questions of alienation have not been involved has been the responsibility of District Administration under the direction of the Chief Secretary. Disputes between Solomon Islanders themselves have occupied extensive attention, and this will be referred to later. Matters relating to native land and directly affecting the Protectorate's economy have necessitated ad hoc decisions without the advantage of any clearly defined and formulated policy. These will become apparent as the report proceeds. Such matters could not be held up indefinitely and decisions have had to be made in the light of circumstances at the time. This could not be helped but in land matters, wrong decisions tend to snowball. This in turn underlines the fact that failure to attend to basic administrative requirements, such as land tenure, because of the cost, is bad economy, since eventually the cost becomes prodigious and out of all proportion to the territory's resources. This is the state of affairs now.

CHAPTER IV

THE PRESENT NATURE OF LAND LAW

For some years now, divergence of legal interpretation of the present land legislation has been apparent. Although this Commission is not competent to attempt any precise legal exposition, a brief outline of categories of land is necessary to summarise the present position, to draw attention to certain basic doubts and to emphasise the need for careful legal analysis before new legislation is drafted.

2. One qualifying point is made. The laws of the Protectorate were consolidated in 1947, the two volumes being published in 1950. It has been found that in this process, Cap 49, the Land Regulation, tends generally to obscure the force of provisions in the basic legislation. Presumably however this is covered by section 9 of Cap 1, Interpretation and General Clauses Regulation. In particular although the Commissioner who effected consolidation was empowered by section 4(9) of King's Regulation No. 4 of 1947 to correct grammatical errors, etc. the replacement of the word "user" with "uses" in the definition of native land in section 2 of Cap 49, might be held to be going too far. Other similar confusions may be found.

The Supreme Title

3. The Crown's legal authority appears to rest on the Pacific Order in Council, 1893 and subsequent Orders, passed by virtue of powers confided to the Crown by the British Settlements Act 1887, the Pacific Islanders Protection Act 1872 and 1875, and the Foreign Jurisdiction Act 1890. The status of the Protectorate appears to be governed by Proclamation dated 28th June 1893 and subsequent Proclamations made principally by the Captains of the Royal Navy in different islands and groups.

4. By section 108 of the Pacific Order in Council the High Commissioner has power to make, alter and revoke regulations for the observance of treaties, the maintenance of peace, order and good government, the provision of trade returns, the superintendence of prisons and the registration of British subjects. In the case of matters affecting indigenous population the passage of legislation is presumably limited by section 7 of the Pacific Islanders Protection Act 1875 which states:-

"Nothing herein or in any such Order in Council contained shall extend or be construed to extend to invest Her Majesty, her heirs and successors, with any claim or title whatsoever to dominion or sovereignty over any such islands or places aforesaid or to derogate from the rights of the tribes or people inhabiting such islands or places, or of chiefs or rulers thereof to such sovereignty or dominion."

5. Although the ownership of land, not only by groups of Solomon Islanders but also by individuals, has been admitted in a great many transactions, it was not until 1914, by which time a large proportion of the best coastal lands had been alienated, that control over the alienation of native land was fully effected. It has always been implicit in all land legislation, that the Crown could regulate occupation of all land, which was not alienated and not owned by natives, or subject to the exercise by natives of customary acts of occupation or other user, such land being classified before 1914 as waste or vacant land, and subsequent to that year as public land. In later years all minerals and exploitation thereof have been reserved to the Crown. Legislation has been enacted to appropriate land required for public purposes. There have thus been steady inroads upon native land interests, and the precise limits to which legislation can go has never been clear. This has caused some concern to successive Commissioners of Lands. It is suggested that the advice of the constitutional legal advisers at the Colonial Office should be sought as to -

- (a) a definition of the implications and limitations of the Crown's supreme title in the Protectorate;
- (b) a definition of the extent to which legislation can be enacted to control native land.

6. In connection with this question, it must be emphasised that while today it is generally believed that no difference exists between a "colony" and a "protectorate", the fact remains that for Solomon Islanders the two possess very different meanings and implications. As they see it, a Protectorate is a country under the protection of an alien, yet friendly and benevolent power, which protects and administers the people in accordance with their own wishes and interests. A colony, on the other hand, is a territory whose resources and people are enslaved and exploited in the sole interest of the colonising power. Implicit in the term "colony" for them is the loss of all land interests. This attitude was given full expression during the political troubles of 1946-1952, is still extant, and regardless of how naive it might be held to be, it is one which cannot be lightly disregarded.

Private Land

7. This is land which is owned in freehold by non-natives and originally acquired by direct purchase from the native owners under the provisions of Queen's Regulation No. 4 of 1896. Although this regulation was repealed in 1914 it appears to remain in force as regards all rights acquired and obligations incurred thereunder (vide section 3 of King's Regulation No. 3 of 1914). Section 11 of Queen's Regulation No. 4 of 1896 specifically states that the approval of the High Commissioner to any conveyance is not conclusive evidence of the right of the vendor to convey the land. Therefore, except in the case of private land, to which native claims were made and which were adjudicated by the Lands Commission of 1919-24, the

findings of which were approved by the Secretary of State, and such lands as have been vested in the Bishop of Melanesia under the Church of England (British Solomon Islands Protectorate) Property Regulation No. 8 of 1954, the titles in undeveloped private land may be upset at any time. The Roman Catholic Mission's title in a part of their private land at Tarapaina was partially upset by the Courts in 1955 following upon claims by descendants of native owners, not consulted prior to the original conveyance.

8. It would appear that notwithstanding the definition of private land in Cap 49, such land can be sold to individual natives or groups of natives providing the purchaser has a legal entity.

Public Land

9. Public land, frequently and incorrectly called Crown Land, is all land which is not native land or private land, and must be held to include all land which has been acquired by the Crown by purchase from the native owners, under Queen's Regulation No. 4 of 1896, or subsequently under King's Regulation No. 3 of 1914, and its amendments together with such private land which the Crown has purchased or acquired for public purposes under Part II of Cap 49 or its antecedents. It appears from the definition of Public Land in Cap 49 and from the intention of the legislators responsible for King's Regulation No. 3 of 1914 that all land not private land and not native land, i.e. land not owned by natives or not subject to the exercise by natives of customary rights of occupation, cultivation or other user, may be regarded as public land. This principle has never been applied under Cap 49, and the procedure for applying it is not set out by legislation.

10. Again, with the exception of those areas of public land which were adjudicated by the 1919-1924 Lands Commission and such lands as are now vested in the Bishop of Melanesia, there is little certainty of title in respect of undeveloped land. As an example of this, in 1949 without recourse to the Courts, the Crown's title to land at Nyanga, Vella Lavella dating from 1915, was made void because it was held that the vendor had no right to sell the land. Accordingly the land and its improvements, together with all rent which had accrued to the Crown over the years, was handed back to the descendent of the legal owner.

Occupation Licences (or Certificates of Occupation)

11. These are licences granted by the Crown under King's Regulation No. 1 of 1904 or its predecessors, to occupy waste lands, i.e. land which is not owned, cultivated, or occupied by any native or non-native person. This regulation was repealed by King's Regulation No. 3 of 1914, but all rights and obligations incurred thereunder remain. Unless such licences were adjudicated by the 1919-24 Lands Commission (as in the case of Levers Certificate A13) title in respect of undeveloped lands must be regarded as being doubtful. Such licences are for 99 or 999 years. Upon expiry, the Crown can presumably continue to regulate the occupation in such land but cannot claim title.

12. The Crown occupies a number of areas of waste lands. Gizo is an example, but no proclamation declaring it waste land has been found, nor does Government hold a Certificate of Occupation. Muvia, an area of 10,000 acres on the Guadalcanar plains, was formerly held under Occupation Licence by the Solomon Islands Development Co. Ltd., under King's Regulation No. 10 of 1918. The licence was purchased by Government from the Company just after the war for development purposes. The Government's title is now under challenge by the Tasimboko people who claim that the land was never waste land, and that a Certificate of Occupation should not have been granted to the Company in the first place. The claim is to be heard in the Courts in due course.

Native Land

13. This is land owned by natives or subject to the exercise by natives of customary rights of occupation, cultivation or other user. Native land may not be alienated by sale, gift, lease or otherwise to non-natives, which must presumably be held to include part-Europeans with European status. It is provided, however, that land which is not in cultivation or not required for the future support of natives may be sold to the Protectorate Government. Such land may also be leased by the High Commissioner to non-natives, with the owners consent, providing the land is not under cultivation or is not required for the future support of the natives. Under Cap 33, no non-native may reside on native land without first obtaining a permit.

14. Native land, by implication, may be sold from one native to another. Natives are defined as -

- (a) any aboriginal native of any island in the Pacific Ocean;
- (b) any person of mixed European and native descent who shall not have been registered by a Deputy Commissioner or whose registration shall have been cancelled in the manner provided.

15. The only clear titles would appear to be in respect of lands leased to non-natives and which have been the subject of adjudication by the previous Lands Commission; also such other lands for which declarations of title have been given in the High Commissioner's courts (for example the central block of Honiara land from Honiara to Chachapa Kodamaba). Native customary interests can presumably be modified within limitations by approved resolutions of the appropriate Local Government Councils and decisions of the Courts.

Native Reserve Land

16. This category of land is not provided for in any legislation. During the 1919-1924 Lands Commission, certain small parcels of land situated on alienated lands were reserved to the natives. At Kolombagara, of which three quarters have been alienated to Levers, six plots of ten acres each, plus nine islets or islands, were so reserved. Similar

plots and islets were reserved in other parts of New Georgia, Malaita and elsewhere by the Lands Commission. Such lands were not reserved to any particular group or individual, but to the natives residing generally in the vicinity. Two plots of land in the Honiara area were reserved to the Matanikau people by judgment given in the High Commissioner's Court in 1946.

Leasehold Lands

17. (a) Public Leases : These are leases of public lands granted for periods up to 99 years for cultivation and building purposes and for 21 years for grazing purposes in terms of Cap 49. Leases of public lands may be granted to Solomon Islanders. The remarks regarding the uncertainty of title made in paragraph 8 above apply to public leaseholds. An example of almost certain title would be those Crown leases issued in Honiara east of the Matanikau. This land, formerly held by Levers, was the subject of enquiry and adjudication by the previous Lands Commission.
- (b) Native Leases : These are leases of native land granted for periods up to 99 years for the same purposes and under the same terms as public leases, except that rentals are payable to the native owners less a collection fee. Uncertainty of native title applies in many cases.
- (c) Sub-leases of Native Leases held by the Crown : Only one of these is in existence, that at Ilu Farm, Guadalcanar. The title is fairly secure, since elaborate enquiry was undertaken beforehand; presumably, however, it could be challenged.

Permits to Occupy

18. Permits to occupy public land were issued to Solomon Islanders for a period after the war under section 6 of Cap 49. Such permits were in respect of plantations formerly held as public leaseholds which, following the end of the rent moratorium, reverted to the Government because the lease holders preferred not to resume their properties, or were unable to meet the rents. The permits are for short periods and token rentals only are charged.

Mining Leases

19. Under Cap 53, all minerals of whatsoever description in or under all lands, whatever the tenure, are reserved to the Crown, which may declare mining areas and issue mining leases. Provision is made specifically for conditions under which mining may be carried out on alienated and native land.

National Parks

20. Under Queen's Regulation No. 5 of 1954 the High Commissioner may by Proclamation declare any area of land to be a National Park.

Residence, hunting, carrying arms and lighting fires in areas so proclaimed are controlled or forbidden.

Land Holding by Aliens

21. The holding of land by aliens, or by a company under alien control, is restricted by Cap 20 which requires that such persons or companies require to be licensed before they can hold land or mortgage any estate or interest.

Distribution of Land

22. The following details show the approximate areas of land held by natives and non-natives, together with the number of documentary titles at the end of 1956:-

	<u>No. of Titles</u>	<u>Acres</u>
A. <u>Solomon Islanders</u>		
(1) Customary	inapplicable	6,922,800
(2) Permits to Occupy	13	3,300
(3) Public Leases	<u>2</u>	<u>1</u>
	<u>15</u>	<u>6,926,101</u>
B. <u>Non-Natives</u>		
(1) Private Land	190	146,430
(2) Public Leases	287	45,530
(3) Native Leases	84	6,170
(4) Occupation Licences (or Certificates of Occupation)	<u>4</u>	<u>160,080</u>
	<u>565</u>	<u>358,210</u>
C. Public land)		65,500
) At present vested		
D. Waste land occupied) in the Crown		
by the Crown)		11,500
		<u>77,000</u>

Thus, alienated land represents six per cent of the total land in the Protectorate; unalienated land amounts to 65 acres per capita. It is estimated that land alienated represents 20 per cent of the coastal land; of this proportion, probably 90 per cent could be categorized as first class coastal land.

PART TWO

THE CUSTOMARY LAND
TENURE SYSTEM

THE SOCIAL SYSTEM

The Protectorate is no exception to the principle that land tenure is closely interwoven into the social system. Broadly, the system can be analysed into four main elements, namely social, political, economic and mission. In this chapter a brief analysis will be made of each element. Certain aspects will be developed in detail in later chapters.

(A) Social Organisation

"Tribal" Communities

2. The definition of "tribe" is necessarily a loose one. Assuming that a tribe is a group of people speaking a common dialect, inhabiting a common geographical area, and exhibiting a certain homogeneity of culture and tradition; that it is not exogamous nor is it primarily a kinship group (though members may sometimes claim descent from a common ancestor); then the Protectorate can be said to be made up of a number of tribal communities of varying sizes. Bambatana (Choiseul), the islands of the Bougainville Straits, Vella Lavella, Savo, the ten sub-districts of Malaita, Arosi (San Cristobal), Tasimboko (Guadalcanar), and Tikopia are all typical examples of tribal communities.

3. Nevertheless, early administrators and missionaries, whose experience related to Fiji and Polynesia generally, were hesitant in using the term "tribe" in the Solomon Islands. This seems to have been mainly because in the local societies the nature of chiefly authority was not easily determined. Its character appeared different from that found elsewhere. In brief, chiefly power was such that both the Government and the mission societies found difficulty in making use of it with any confident expectation of satisfactory results. Tribal communities were therefore scarcely recognised. In conversation, groups were referred to as the Simbo people, or Malu'u people, or simply in pidgin English as "altogether b'long Tasimboko". Officially, groups of people later came to be recognised as "sub-districts", "islands" or "districts", each one of which had a name which variously might relate to the people, a small island, a harbour or passage, or a wider geographical area or even a river. As time has gone by, and sub-district and district boundaries have undergone many changes, these have been overlaid by changes in jurisdiction of headmen, Local Councils and Native Courts. The position has become very confusing. Thus "Rovianas" might mean the people of the Roviana sub-district which is a Council area; the people who live in the lagoon of that name situated east of Dude; the people of Roviana island, or descendants of migrants from that island now living on Parara island in the Wana Wana lagoon; or indeed anyone whose skin is black and speaks the Roviana language, which is the lingua franca of the prominent mission in the Western Solomons.

4. However, the Rovianas could not be regarded as a tribal community. Their tradition is one of division and enmity; they speak several dialects, and the history of their attempt to recover lands included in Levers' Certificate of Occupation illustrates the extent of their division. They have had close affiliation with Fiji and Tongan missionaries, and under their influence some of the leaders of the Roviana sub-district are almost pedantic in their insistence on tribal divisions. Today eleven groups are recognised as such : these are Duke, Kusage, Wana Wana, Kazukuru, Kokorapa, Vuragare, Kalikoqu, Saekile, Ugeli, Banieta and Lokura. The whole population does not exceed 3,750, while one group may number anything from 100 to 800.

5. The accent of the definition of "tribe" is on homogeneity of culture and tradition. This cannot of course be measured, and obviously variations will occur. From early papers it appears that if homogeneity did exist, and early anthropologists assure us that in some cases it did, it was scarcely apparent. That it is present today must in some measure be due to the peoples' growing awareness of similarity of interest; to the effects of Pax Britannica which made the awareness possible; to the necessity for unit expression; and to the discovery that differences, believed to be of such great importance formerly, are not as great as were imagined. Nevertheless, cultural diversity is still prodigious, and not even the passage of time and steady development will be able to overcome essential difficulties of communication across the large areas of sea which divide all islands. However, homogeneity is spreading, and during the political discontents considerably more than half the population showed an astonishing unity. Thus, although early administrators were disconcerted by the apparent disunity, time and progress has had some effect and will doubtless continue to do so.

Clans, Lineages and Moieties

6. Tribal communities may be broadly divided into either clans, lineages or moieties. For the purpose of this Report, these are defined as follows:-

Clan: An exogamous social group whose members regard themselves as being related to each other usually by fictional descent from a common ancestor. The clan may follow the patrilineal or matrilineal line of descent.

Lineage: A social group whose members trace their descent from a common ancestor or ancestress who may or may not be fictional. The lineage may follow the patrilineal or matrilineal line of descent. It is not exogamous but it may have been once.

Moiety: This term is applied when only two matrilineal exogamous groups exist in the society. This is Dr. Rivers' dual organization. Each moiety is usually composed of several associating clans.

7. Matrilineal exogamous clans and moieties are found throughout the Central Solomons, in Ysabel, Florida, Savo, Guadalcanar (with the exception of Marau saltwater people) and the Russells, and belong broadly to the same system. They are as follows:-

<u>Ysabel</u>	<u>Savo</u>	<u>Florida</u>
Thonggokama	(Zonggokama (Zonggokiki	(Honggokama (Honggokiki
Vihuvunagi	(Gaumbataga (Zimbo	(Nggaombatu (Himbo
Possomonggo	(Kakauga (Lakuili	(Kakau (Lahi

Guadalcanar

<u>South, East and Central</u>	<u>North</u>	<u>West and North-West</u>
Manukiki (moiety)	(Haubatu (Lakuili (Kiki	(Gaubatu (Thonggo (Naokama
Garavu (moiety)	(Zimbo (Kidikali (Kakau	(Thimbo (Lathi

Russell Is.

- (Kaiselen
- (Keruval
- (Sevev
- (Lakuili
- (Solovui
- (Kiki

8. There is general agreement that each of the above clans in each place has its equivalent or equivalent group with dialectical variation elsewhere, but there is little agreement as to the precise equivalent. There is reasonable agreement as to equivalents between Ysabel, Savo and Florida and between the northern areas of Guadalcanar, but this is as far as it goes. All of these clans are not found in every tribal area, let alone in every village. Similarly, clans which may be found in a tribal area or village in one generation, may not necessarily be found in a succeeding generation. Thus, Codrington¹ listed the six found in Florida, Rivers² found only four,

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1. R.H. Codrington "The Melanesians - Their Anthropology and Folk-lore", Clarendon Press, Oxford 1891. p. 30.
 2. W.H.R. Rivers "The History of Melanesian Society", Vol. I, University Press, Cambridge 1914. p. 241.

while Hogbin's³ informants gave five. In respect of Savo, Rivers⁴ gave five clans. Similar variations are found in Guadalcanar. It is not that these authorities are wrong, it is simply as informants stated, certain clans die out or migrate.

9. In the south, east and central Guadalcanar, the two major groups (rau) constitute moieties with which are associated a varying number of component clans, called raundakendake. The numbers vary from place to place. In the Marau bush for example, there are twelve, while at Avuavu, there are four only. At Talise on the other hand, Manukiki has thirty four while Garavu has thirty two. There have been two curious developments at Talisi and Malango/Vulolo. One is the emergence of the garavu vetale or garavu "half-line" as it is called in pidgin English. This consists of three clans, the members of which, for the purposes of marriage, regard themselves as constituting a separate exogamous moiety. The "half-line" is said to have originated because a member of the garavu moiety offended against the exogamous principle and refused to acknowledge his error. By ceremonial distribution of food, "half-lines" can be translated to conventional status. The second development is the establishment in certain areas of the Haubata clan as a separate rau. This has resulted from migrations from west and north-west Guadalcanar.

10. At Kia in Isabel, a number of minor clans are associated with the major clans. Thonggokama has ten, Vihuvunagi four, and Possomonggo, eight. It is said that when the missionaries came to Isabel, exogamy applied between the associating clans only. This is in keeping with the tradition that the associating clans had been started to avoid the exogamy principle. Mission influence has persuaded the people to revert to the strict exogamy principle on the basis of the three main clans.

11. Turning now to San Cristobal, social organisation is still largely as described by Dr. C.E. Fox⁵. Throughout the whole of this area (including Ugi, Santa Ana and Santa Catalina) the two main clans which are matrilineal are Amwea and Atawa. Because these are dominant (in that the minor clans tend to associate themselves with one or the other) they could be referred to as moieties. In Arosi, the two moieties have four associating clans. One, however, Urawa, an immigrant clan from Ulawa, is independent of both. In Bauro and Haununu, the two moieties are dominant, but small groups of the Arosi associating clans are also found. At Ugi two associating clans are found grouped under Atawa. In the Star harbour, Wainoni and Ravo areas, four are associated with Atawa, while Amwea has five. On Santa Ana and Santa Catalina, Atawa is called Mwao and has two clans associating, while Amwea or Ariu has three. Agave is said to have

3. H. Ian Hogbin "Social Organization of Guadalcanar and Florida - Solomon Islands", Oceania June 1938. Vol. V. No. 4. p.400.

4. W.H.R. Rivers, *ibid.* p. 248

5. C.E. Fox "The Threshold of the Pacific" Kegan Paul, London 1924. Part I.

precedence over Amwea. Dr. Fox records the existence of the Araha or chiefly clan which was closely identified with the Atawa moiety. With the breakdown of ancient custom, the social function of the Arahas has largely disappeared. Except in the south eastern areas, where these clans exist under the names of Ainuniaraha or Agave, the Araha clan has merged into the Atawa moiety.

12. Going further east, to the Santa Cruz group, the matrilineal clan system predominates. At Ndeni, the people are divided into twelve clans, while in the Reef islands there are nine. It is claimed that some of these were formerly equivalents; this is no longer apparent. In the Duff islands traditional social organisation has all but broken down, and the people have little idea of the groups to which they belong. Two Reef island clans were named, and it is probable that the social organization was once similar. Exogamy is no longer practised, and a man simply is forbidden to marry anyone he calls sister. There are seven matrilineal clans at Utupua and Vanikoro. Exogamy is no longer strictly practised and these groups are probably better described as lineages. The following is a list of clans in no particular order:-

<u>Ndeni</u>	<u>Reef Is.</u>	<u>Utupua</u>	<u>Vanikoro</u>	<u>Duffs</u>
Mbu	Palembo	Lolua	Buluwowo	Pelembo
Mbembla	Pependal	Mabingei	Fegeten	Papendale
Nava	Pekuli	Aburma	Mieve	
Epe	Pelowe	Tavi	Pesenamwaga	
Nienda	Pelegamu	Gannei	Meree	
Mbua	Penepe	Pelembo	Peneive	
Nadu	Pekeo	Vahiniu	Onoro	
Mbona	Pepali			
Lopwanu	Penuelo			
Kio				
Talaolego				
Kuli				

At Tikopia there are four patrilineages, Kafika, Tafua, Taumako and Fangarere. Professor Firth referred to them as clans, and although they are not exogamous they function in other respects as clans.

13. Turning to the western part of the Protectorate, a certain unity is to be found in New Georgia, but the systems of the Shortlands and Choiseul differ again. In the Marovo, the people are divided into 27 lineages, and in the Roviana, into 34 lineages; in Vella Lavella 41 lineages are found, of which 19 are said to be immigrant lineages. There are signs in Vella Lavella that the indigenous lineages have emerged from two moieties, Kubo and Sarapaito. In addition when lineages were fewer, exogamy was practised. The lineage system applies in both Simbo and Ganongga. Throughout New Georgia, descent used to be matrilineal, but today it is bilateral; this will be referred to later. In Choiseul, the people are divided into over one hundred lineages - descent being patrilineal. Finally, in the Shortlands, the social organization, which has largely broken

down, is similar to that in the Central Solomons. There are two main classes of clan called Tua (= grandfather or male ancestor) and Tete (= grandmother or female ancestor). Of the former, ten can still be identified while of the latter, only three are still in existence. This is as opposed to thirteen and ten respectively at the beginning of this century.

14. There is a unity in social organization in Malaita, Ulawa and the islands of Marau Sound, Guadalcanar, which is not found elsewhere in the Solomons. Throughout this area, the people are divided into a very large number of lineages with patrilineal descent, the names of which normally relate to the land area where the first ancestor lived and cultivated. It appears that in north Malaita lineages are less atomised than in the south. For example, in To'obaita, the number of primary lineages is 26, while a total of 19 have emerged from these in comparatively recent times. They are, however, independent, groups. Fataleka has eight main groups, while Baegu'u has 15. In Langa Langa there are 19 lineages, while western Kwara'ae has over 30. In the Sinerago area of Koio, with a population much less than To'obaita, there are over 40 lineages. In Ariari the total would not be less than 80. On the other hand, at Marau sound the Ariari-descended saltwater people divide themselves into ten lineages, the names of which are said to be related to the canoes in which their ancestors emigrated from Malaita about 12 generations ago. It is possible that the main social unit on Malaita was once the matrilineal clan. Mr. T. Russell⁷ says that the Fataleka lineages were once exogamous while Ivens states there are indications that in the past, North Malaita possessed a matrilineal system⁸. In Kwara'ae, Baegu'u and parts of Small Malaita strong evidence still exists that formerly each tribal group was divided into six to eight exogamous clans.

15. The precise significance of the clan/lineage/moiety structure of the Protectorate has undergone a considerable change since 1893. From the point of view of land tenure it is still very important, but knowledge among people generally is declining, despite the reversion to custom which the political movements provoked. In general, knowledge is more widespread and accurate among patrilineal systems than matrilineal; pagans or recently converted Christians are more knowledgeable than Christians; and in areas where political feeling has run high (such as Malaita), or litigation, especially with Europeans, has been extensive (such as Roviana), distortion and disagreement are common.

16. Some brief remarks are appropriate in respect of totemism. The characteristics of this institution include identification by name between the totem and the group, belief in descent from the

6. W.H.R. Rivers "The History of Melanesian Society" Vol. II, University Press, Cambridge 1914. pp.340-349.

7. T. Russell "The Fataleka", Oceania Vol. XXI No. 1, 1950.

8. W.G. Ivens "The Island Builders of the Pacific", Lesley, Service & Co. Ltd., London 1930. p.296.

totem, the observance of religious ritual to propitiate it, the prohibition from killing or eating it, association with exogamy, and the representation of the totemic object by carved or sculptured symbols. While any one or more of these characteristics may be absent, care should be taken not to confuse it with objects which are believed to be the reincarnation of the dead, such as the shark in the Langa Langa, the Marau saltwater islands, Maru bay in Arosi and the spirits which inhabit certain trees and stones in parts of San Cristobal.

17. Relics of totemism are to be found today in the clan systems of the Shortlands, the Central Solomons, parts of the Eastern Solomons and the Santa Cruz group (including the lineages of Tikopia). Throughout these areas, birds and fish predominate, while snakes, lizards, pigs, dogs and the coconut are also characteristic. Except among the most rigid pagans of whom a few still exist, and in those societies whose traditional social organisation has not disintegrated (such as Tikopia), totemism has little current significance and seldom infringes into the life of the ordinary man; usually it is limited to a vague belief that his "line" is "cockatoo" or "barracuda" and that once his ancestors did not kill or eat it. In this connection, the myth of the Marching Rule movement, namely the return of the Americans with cargo, encouraged an enthusiastic interest in the eagle, which a number of dominant clans, notably the Atawa of San Cristobal have "appropriated" as their totem. The word "appropriated" is used, since agreement is expressed with Dr. Fox who stated that neither moiety had totems in former times. In general it is considered that knowledge of local totemism expressed as evidence in land disputes should be regarded with some reservation.

The Line and the Land Group

18. In all clans and lineages, including clans associated with moieties on Guadalcanar, San Cristobal, and Kia, two localised social groups can be isolated. To distinguish them for the purposes of this report, they will be referred to as the line and the land group.

19. The members of a line consist of those persons, who are in close kinship relationship to one another; who trace their genealogy back to a common ancestor either by patrilineal, matrilineal or bilateral descent, depending upon the custom of the society of which they are members; who cultivate an area or several areas of land cultivated by their forbears, each one of which has a recognised name and boundaries of varying kinds; and whose same forbears sacrificed to the ghosts and propitiated the spirits on those lands. Today, the line is regarded by the tribal group of which they are part as holding primary interests in those lands. The Kababona line of Bambatana, Choiseul (in the male descent), the Dude line of Kazukuru, Roviana (bilateral descent), the Uala line of To'obaita, Malaita (in the male descent), the Thonggokama Mahaga Lau of Bugotu, Ysabel, and the Atawa line of Maru bay, Arosi, San Cristobal, are all examples of lines. The Paito of Tikopia or houses as Professor Firth described them would also be included.

20. The land group on the other hand is a wider social unit. It consists of all members of the line, together with all those who have secondary interests in the line's land. These would include persons of the distaff side if descent is patrilineal, and vice versa in the case of matrilineal descent, together with all those persons who through marriage or by any other method have acquired secondary interests. In the case of bilateral societies the position is more complicated, but broadly, the land group would include all persons residing on the land or having interests in it.

21. The land group approximates to the district group which Dr. Hogbin⁹ considered to be the principal social unit of North Malaita. The main reservation to this is that while for Dr. Hogbin's purpose it could be accepted that the members of a Malaita district group regard ties through males and females as of equal importance, this does not apply in Malaita land tenure today. In brief, the land interests of the ainifasia of a land group (persons related in the male descent) are primary, while those of ngwaikwalina of the same land group (persons born of females) are secondary. Put another way in terms of the above, a man who is ngwaikwalina of the Uala land group cannot be a member of the Uala line, since that is confined to men who are ainifasia of Uala. This principle applies broadly throughout the Protectorate, and the implications together with the analysis of the balance of individual interests will be referred to later.

The Family

22. The family, consisting of a man, his wife and children, is the main social unit of the land group. Except where marriage between members of the same clan or lineage has occurred, it is unusual for all members of the family to be members of the same line. Nevertheless by reason of broad kinship and marriage, the individual members may be members of several different land groups, though for subsistence purposes the bulk of the family's interests are normally concentrated in the lands of one line. This is of course governed principally by residence, combined with the mode of descent in the tribal community.

23. The members of a family have obligations to one another, but in addition have obligations to relatives outside the family. These vary according to the society, the nature of descent and the classificatory degree in which the particular relative stands, modified by factors such as feud, opportunism, distant residence, the degree of breakdown in traditional obligations and religious differences. Obligations are reciprocal, and are not only traditional, but include advancing money without interest for unlimited periods, assistance in payment of tax, aiding storekeeping enterprises, helping in copra production and giving aid and comfort and support in times of political trouble.

9. H. Ian Hogbin "Experiments in Civilisation", George Routledge & Sons Ltd., London 1939. p.25.

24. Broadly, in matters affecting land tenure, members of patrilineal communities, such as Malaita, have more definite obligations to the father's brothers. In matrilineal communities, such as those of the Central Solomons, obligations are generally owed to the mother's brothers. As regards the latter, the qualification is made that inroads into the matrilineal system are proceeding steadily. Although once the mother's brother had more influence than the father, this is now changing. As more and more people look to their father for primary land interests, there is a tendency for the mother's brothers to be eclipsed. In the case of the bilateral societies of New Georgia, opportunism combined with convenience play a part in the fulfilment of customary obligations, but the tendency is to lean towards the father's brothers.

25. In this report, affinal relatives will be used in the sense of the wife's relatives acquired by marriage; "immediate family" will mean the family together with a man's blood brothers and sisters and their spouses; "wider family" will mean the family together with a man's wife, children, his wife's brothers and sisters and spouses, his own brothers and sisters and their spouses, his parents and his wife's parents, together with any dependent relatives such as his or his wife's grandparents.

The Individual

26. The status and position of the individual in Solomon Island society is still dictated largely by kinship obligations. In the land tenure system, this is governed by the individual's right by birth to derive his subsistence from the land of his line, or if he chooses otherwise, from the land of any land group of which he becomes a member. It is in the use of his line's land for cash profit that his position today is challenged. This is so especially on Malaita. The traditional concept of the individual in society is that he should conform to certain traditional rules of behaviour and that he should not emerge from anonymity except in accordance with certain rules. If by hard work he accumulates wealth in the form of pigs, primitive money and food crops, he will be expected to distribute it in accordance with rules and obligations. If he inherits certain skills such as canoe building or porpoise hunting, he will be expected to use those skills for the benefit of the group of which he is a member. If prestige has made him an arbitrator or political organiser, he will be expected to benefit those who accord him their support.

27. On the other hand, the man who engages in economic enterprise, especially by cash cropping, tends to be suspect. Primitive wealth is more evenly distributed in the community than European wealth. The very nature of the European cash economy does not encourage the Solomon Islander who accumulates money to distribute it lightly. Many individuals who become successful in economic enterprises avoid rejection by their community by being meticulous in the provision of mortuary feasts, etc. Because of their status, the drain on their resources is considerable. On the other hand there

are those, more sophisticated and perhaps a little too confident, who scorn both traditional obligations and the opinion of the community and follow strict individualistic principles. Such persons become isolated and find themselves having to pay in cash for every minor service which is normally provided as part of the customary obligations. Once again the drain on resources is considerable. In both cases, the Solomon Island storekeeper seems to meet the problem like his European counterpart - he simply passes the added costs back on to the consumer. It is not merely avariciousness that is responsible for the unusually high prices and low wages characteristic of the economic enterprises of Solomon Islanders. The problem of customary obligations versus individualism is not unique to the Solomon Islands.

28. The customary tenure system has many obvious attributes, not the least important of which is the fact that poverty in the sense of starvation (except perhaps in times of disaster) is almost non-existent. However, the cash economy is steadily expanding, new needs are developing and the position of the individual in relation to the land tenure system is changing.

(B) Political

Central Government

29. The Solomon Islands is a Protectorate administered by the High Commissioner for the Western Pacific who is responsible to the Secretary of State for the Colonies. The High Commissioner is also responsible for the administration of the two other territories of the High Commission, the Gilbert and Ellice Islands Colony and the New Hebrides Condominium. These are administered through Resident Commissioners. Apart from contributions made to certain joint services of the High Commission and more recently the scheme for resettlement of Gilbertese in the Protectorate, there is little contact between the peoples of the Solomon Islands and the other two territories. Difficulties of vast sea communications keep them apart. They are to all intents three separate Governments.

30. The High Commissioner administers the Protectorate through the Chief Secretary and various Heads of Departments with the assistance of an Advisory Council. This Council consists of four official members - the Chief Secretary, Attorney-General, Financial Secretary and Senior Assistant Secretary (Native Affairs) - five non-official members, appointed from time to time by the High Commissioner, and five Solomon Island members. Solomon Island members have sat in the Council since 1951 only: they are appointed by the High Commissioner, and broadly represent the four districts. Three of them are presidents of island councils appointed by the High Commissioner having been selected by their respective Councils, the members of which in turn have been chosen by the people. There is thus an element of the elective principle in the selection of Solomon Island members.

31. The main duty of the Council is to advise the High Commiss-

ioner in his legislative capacity. It meets twice yearly, the most important session being to consider the budget. A Standing Committee of the Council is available to advise the High Commissioner when the Council is adjourned.

32. The High Commissioner has vested certain responsibilities of central administration in a number of statutory boards and committees. The most important of the former are the Mining Board, the Agricultural and Industrial Loans Board, the Port Authority, the Trading Corporation and the Copra Board. The latter is responsible for the purchase and marketing of copra and is the only Board on which Solomon Islanders are represented.

33. The Courts of the Protectorate are the Court of the High Commissioner for the Western Pacific and Native Courts. The High Commissioner's Court consists of the High Commissioner, Judicial Commissioner and Deputy Commissioners: the latter are Administrative Officers. The High Commissioner's Court has the full original jurisdiction of a Supreme Court. When held before a Deputy Commissioner it cannot exercise jurisdiction in matrimonial cases, admiralty or lunacy, nor in criminal cases where the offence charged is one punishable with death or imprisonment for seven years or more. Certain cases heard by Deputy Commissioners are subject to review. Appeals may be made from decisions of the Judicial Commissioner in civil and criminal matters to the Fiji Court of Appeal and thereafter to Her Majesty in Council.

34. The Protectorate is grant aided by the United Kingdom Government. The following is a summary of revenue and expenditure for the years 1952 to 1956:-

	Ordinary <u>Revenue</u>	Ordinary Recurrent <u>Expenditure</u>
	£A	£A
1952 (Actual)	483,445	459,325
1953 (Actual)	546,840	471,591
1954 (Actual)	566,816	483,031
1955 (Actual)	596,262	633,249
1956 (Actual)	663,113	644,689

In 1957, the estimated revenue is £A577,750 and estimated recurrent expenditure is £A766,100. None of the above figures include Colonial Development and Welfare, Works Extraordinary, or Development Reconstruction. Total expenditure in 1957 is estimated at £A1,426,765. A total of 51 per cent of the revenue is made up of customs duties including export duty on copra and shell. During the next three-year period to 31st March 1960, the Development Plan provides for an expenditure of about £A1,000,000. Total expenditure in 1957 represents a figure of about £A13/10/- per head of population. Expenditure on the Department of Lands and Mines in 1957 represents 2 per cent of the total expenses of normal administration, while revenue

collected by the Department in rents and fees etc. is of the order of .8 per cent of the ordinary revenue. Expenditure on the Department of Agriculture amounts to 2.6 per cent.

35. Although the face of the Protectorate has changed completely since 1941 and very considerably even since 1952, the growth of a sense of national community, with a national voice, is slow. The recent war provided much stimulus. But the prodigious difficulties of transport and communication over miles of sea between heterogeneous communities with an intensely parochial outlook, speaking many different dialects, together with underpopulation and a grant aided economy, all combine to hamper further growth. Never theless, political consciousness is developing rapidly and while this frequently outstrips economic capacity, signs of rising population, together with the possibility of increased agricultural production, may see the evolution of a strong sense of national community during the next generation.

District Administration

36. The Protectorate is divided into four districts each under the charge of a District Commissioner. These are:-

- (a) Western District, with headquarters at Gizo, comprising the New Georgia group, the Shortlands and Choiseul.
- (b) Central District, with headquarters at Honiara, comprising Ysabel, the Florida group, Guadalcanar, Savo, the Russells, Rennell and Bellona.
- (c) Malaita District, with headquarters at Auki, comprising Malaita, Small Malaita, Dai island, Sikaiana and Lord Howe.
- (d) Eastern District, with headquarters at Kira Kira, comprising San Cristobal, Ugi, Ulawa, Santa Ana, Santa Catalina and the islands of the Santa Cruz group.

37. District Commissioners are responsible for administration of their districts to the High Commissioner, through the Chief Secretary. They are assisted by District Officers and in some cases by district departmental officers. District Commissioners are responsible mainly for the general administration of their districts and the co-ordination of departmental activities; upon them also falls the main burden of direct supervision of political, economic and social development. Each district is divided into sub-districts, which may be parts of a large island, whole islands or groups of islands, broadly corresponding to tribal communities. Headmen and assistant headmen appointed by the High Commissioner are responsible for the execution of orders issued by the District Commissioner and council resolutions within their sub-districts, for the general maintenance of law and order, the keeping of statistics, and within limitation, the interpretation to the people of Government policy generally. Before the war, village headmen were appointed by Government, Since the war, such posts have

lapsed except in Guadalcanar and Florida, where the Local Councils employ a number of village headmen.

38. In practice the office of headman and assistant headman has undergone some modification. The issue of direct orders by Government is now rare, and headmen are expected not only to function as part of district administration, but to provide every possible support to constituted Local Government. This change is reflected in the type of individual now appointed. Whereas before the war, headmen, as often as not, were selected because they had seen long service in the police or on plantations and understood pidgin English (though perhaps unable to read or write), since the war they have been selected for their intrinsic merit, education, powers of leadership and their status in the social system. This has necessitated a fundamental change of approach towards native affairs. To bring this about much thought has been applied to the present state of traditional authority and to the social changes - elusive to define - which have occurred since the war. The establishment of headmen has been reduced from 166 in 1950 to 106 in 1957.

Local Government

39. Local Government Authorities or Councils are constituted in the different districts by warrants, under the hand of the High Commissioner, and their establishment and procedure is governed by Part IV of the Native Administration Regulation, Queen's Regulation No. 10 of 1953. In selecting an area for which a council is constituted, regard is paid to homogeneity, geographical and economic opportunity, and the wishes of the people. They vary in size from the Vanikoro Council, representing a population of 105, to the Malaita Council, representing 45,000. There are five councils in the Western District, seven in Central, one in Malaita and eight in Eastern. For various reasons councils have not been established at Lord Howe, Tikopia, Anuda, Sikaiana and a number of other small islands. The majority of members and, in some cases all members, are elected or chosen by the people.

40. Councils derive the bulk of their revenue from a head tax which varies from 5/- to £1/5/- in different areas. The collection of this tax, which before the war was undertaken by district administration and paid into general revenue, is now the responsibility of Local Government which also derives revenue from native court fines and fees. Revenue in 1957 is estimated at £A19,523, while expenditure, including extraordinary expenditure, is £A21,970. Council reserves are at present of the order of £A35,000. Normally more than 50 per cent of the expenditure is on council staff, i.e. clerks, justices of the native courts, messengers, dressers, nurses and teachers etc.

41. Councils may make and pass resolutions for the welfare and good government of the native inhabitants of the district, and in respect of any matters affecting purely native administration. Their powers are extensive. Resolutions require the approval of the High

Commissioner. The extent to which Local Government has entered the field of land tenure will be discussed in a later chapter.

42. Native courts are established by warrant of the High Commissioner under the Native Courts Regulation, Cap 30 of the Laws of the Protectorate, and are normally constituted with regard to homogeneity and geographical convenience. Thus in a council area there may be several separate native courts. Malaita, for example, has 14, Choiseul has seven, while Roviana has one. Each court consists of the President, or vice President who may be a headman or council delegate or neither, not less than two justices and a clerk. All of these are paid from Local Government funds.

43. Native courts administer native law and custom prevailing in its area. Their jurisdiction, which normally includes certain specified Queen's Regulations, is set out in their warrants. They also enforce council resolutions. In criminal matters they are normally limited to hearing cases involving sentences of not more than six months imprisonment or a fine of £20. In civil matters they are mainly concerned in awarding damages in respect of breaches of native custom, they can hear disputes over land, but the value involved is limited to £100. The native courts are without direction as to how land should be valued.

44. Following upon chequered beginnings, due to political discontents after the war, Local Government is developing steadily. It exhibits all the growing pains familiar in most colonial territories. Revenues do not measure up to political ambitions. Prejudice is considerable. Results are slow to appear. Local interests are sacrificed with reluctance to wider interests. Confusion occurs over the respective responsibilities of Central Government, District Administration and Local Government. Conflict and jealousy between headman, council delegate and officials of the native courts occur frequently. Finally, the individual looks upon local government with mixed feelings. As a traditionalist his thoughts revert to the days of direct rule with some nostalgia and he is bewildered by the plethora of new institutions to divide his loyalties; as a progressive and individualist with recently found political consciousness, he is disappointed in the amount of tangible material benefit which accrues to himself; and as a parochialist, he distrusts wide representation and seeks to atomise the constituted councils into a series of ineffective ad hoc local councils and committees. Nevertheless both in the field of local government and native courts, Solomon Islanders are showing a steady and growing awareness of their responsibilities and are taking an ever increasing interest in their own affairs.

Citizenship

45. Constitutionally, Solomon Islanders are British protected persons. As such Mr. Judicial Commissioner Charles stated in a judgment, delivered in 1951, that they owe allegiance to Her Majesty the Queen. They are issued with British Solomon Islands Protectorate

passports when travelling abroad. The laws of the Protectorate refer to Solomon Islanders as "natives" and a native is defined in Cap 26 in satisfactorily wide terms as follows:-

- (a) Any aboriginal native of any island in the Pacific.
- (b) Any person of mixed European and aboriginal native descent who shall not have been registered by a Deputy Commissioner.

Since residence by a native in the Protectorate is dependent upon some form of interest in land, it could be assumed that citizenship is primarily related to the exercise of land interests.

46. The rights and obligations of citizenship have never been defined but are implied in native custom, the law, public policy and administrative practice. The rights of citizenship broadly include the expectation of -

- (a) care and assistance in sickness and old age;
- (b) protection by the courts of life, land and property, and redress from wrong;
- (c) assistance in time of famine and disaster;
- (d) assistance in locating deserting spouses or relatives;
- (e) enjoyment and benefit of such public facilities as Central and Local Government are able to provide.

Obligations include the following -

- (i) to obey the law;
- (ii) to meet customary obligations;
- (iii) to pay the head tax;
- (iv) to obey orders issued by the headmen in conformity with the instructions of the District Commissioner or High Commissioner;
- (v) to comply with council resolutions, especially in the performance of communal works and other activities;
- (vi) to obtain permission from the nearest headman to be absent from the sub-district for more than seven days;
- (vii) to notify all births and deaths and finding of dead bodies.

(C) Economic Organization

47. The primitive Solomon Island economic system operated to satisfy certain describable needs, wants and values in terms of social relationships and kinships, all limited by the availability of labour capital, technique and natural resources. Reciprocity governed trade and exchange which were in turn dependent upon liquidity or the ease with which commodities could be exchanged. Mr. C.S. Belshaw¹⁰ has made an excellent attempt to range goods in their order of liquidity and has stated:-

"At the lowest scale of liquidity we have items of specific capital value and personal services which are of a transitory intangible nature. In the former are included such things as houses, canoes, and fish-nets, which were difficult to transport or specific in function, and thus did not often figure in transactions except in so far as they left the hands of their producer to become the property of the ultimate consumers. Also included were small articles of domestic and productive use, such as pots, lime-boxes, adzes, and small nets, which were easy gifts of relatively small value, sometimes exchanged or borrowed.

"Next were those articles of considerable utility yet of such size and nature that they were easily transferable. These included pigs, mats, and shell and feather ornaments of some complexity which have been called money by the field worker and trader. The subjective value of these articles depended in large measure on their ceremonial use, including sacrifice and exchange on specific occasions such as marriage and entry into secret societies. Although some of them were capable of sub-division into units of low value, such as a single porpoise tooth or an inch of shell beads, their generally high value limited their functioning to transactions of high, usually ceremonial, utility.

"Finally, the most liquid and universally used of articles in common everyday transactions were areca nut, and (at least in early European times) tobacco. There was also food, which could be used not only to purchase low-valued items, but also highly-valued articles and labour and professional services, as well as figuring in feasts which were an essential accompaniment in most important ceremonial exchanges. Indeed, we may regard stimulants and food as showing the greatest liquidity of the goods of early Melanesia."

48. A hundred years has seen an extensive change in the traditional economic system. New needs, wants, and values have overlaid and modified the traditional ones, and these are in a state of continuous change. Although reciprocity based on kinship and social relationships is still important, trade and exchange is being directed increasingly to satisfy

10. C.S. Belshaw "Changing Melanesia", Oxford University Press, 1954. p.14.

the needs, wants and values of the individual and the family. The liquidity of European money facilitates their satisfaction. Today, the Solomon Islander is participating in the European cash economy to an increasing degree.

49. The following figures of licences indicate the extent to which Solomon Islanders have entered the field of trade:-

	<u>1955</u>	<u>1956</u>
General Stores	698	801
Bakeries	210	245
Hawking	441	754
Ship Trading	35	34
Dry Copra Purchasing	<u>216</u>	<u>214</u>
	<u>1,600</u>	<u>2,048</u>

(Note: For administrative reasons it is not expected that the 1956 figures will be exceeded for the present. In fact, it is probable that they will tend to stabilise on the 1955 figures.)

These trading enterprises are situated almost entirely in the villages and districts. They are run by individuals or groups of individuals able to operate as a single entity. Capital is subscribed in varying amounts by "shareholders", and "profits" are either shared out at irregular intervals or else ploughed back into the business. Accounts are generally sketchy and defy quick analysis, although a few are well maintained. A proportion employ non-shareholders as storekeepers, but most of the operation is in the hands of the principal shareholder. Little is so far known of the extent of the profits made in such enterprises but the fact that a small proportion pay income tax to the Protectorate Government, is some indication of their prosperity. Considerable prestige is believed to attach to the holding of a trading licence.

50. The greater proportion of goods sold in the stores is purchased from Chinese and European wholesalers in Honiara, while a small quantity is imported directly from abroad and through a Honiara importing agency. Chinese probably supply the majority of the goods by means of a sizeable fleet of vessels which visit the districts constantly. It is almost certain that a number of the stores are directly financed by Chinese capital. This is a device to spread such interests since the issue of trading licences to Chinese is strictly controlled.

51. Although the advantages of the introduction of the co-operative principle have long been recognised by the Government, staff difficulties delayed the appointment of a Co-operative Officer until 1956. The policy is now being prosecuted with vigour but caution in Guadalcanar and Florida, and signs exist that it will become slowly accepted.

52. Solomon Islanders now produce in the region of 8,000 tons

of copra a year. Despite wartime destruction and the obvious age of many coconut groves, extensive new plantings which have occurred during the last eight years are likely to ensure that the present production level will not only be maintained, but will increase, providing that the recent fall in prices does not continue to a level that will discourage Solomon Islanders from pursuing the industry. Due to the campaign for copra improvement based upon price differentials, more Solomon Islanders are producing a better grade of product by hot air drying. A cheap and easily constructed drier has been devised by the Agricultural Department and more of these are now being sold. The greater proportion of Solomon Island copra is still smoke dried by old fashioned methods.

53. Copra is produced by individuals, families or two or three co-operating together, and more recently by progressive men employing anything from three to 20 labourers either continuously or for limited periods. Copra is sold to European or Chinese traders who call regularly at villages, or is taken by powered cutter or canoe to the nearest trading station. There is a good deal of variation in the price paid to producers. This is dependent mainly upon the distance involved in transporting the produce to the purchasing agents of the Copra Board. For this reason, among others, Solomon Islanders place considerable importance upon owning powered craft or cutter boats in which copra can be transported for sale direct to the purchasing agents. Few producers maintain individual production figures.

54. The 600 tons or so of shell gathered annually by Solomon Islanders is sold to Chinese and European traders, who pay prices which allow them a very considerable margin of profit. Shell is not exported by Solomon Islanders directly to buyers abroad. The market is a shaky one.

55. An interesting development in the last two or three years has been the small boat industry. Before the war a few Langa Langa men built cutter boats driven by sail for their own use. Today it is estimated that nearly 50 such boats, of which about half have been designed to take engines, are being constructed by different groups and individuals. The industry is centred mainly in Langa Langa and Lau, Malaita, while odd boats are to be found building in Florida, Marovo, and Ysabel. While the majority are being constructed for personal use, a number will be for sale. They fetch high prices, varying from £A800 to £A1,500 and even more.

56. It is estimated that nearly 6,000 Solomon Islanders are in the paid employment of Government, European and Chinese agencies and institutions, and of these 2,500 are employed in the copra industry. These figures exclude home producers and labourers employed by other Solomon Islanders which is estimated to number a further 5,000.

57. Solomon Islanders also sell a variety of produce for local consumption including rice, vegetables, pigs, fish, fowls, ducks, eggs,

articles of the material culture such as baskets and mats, timber, ivory nut leaf, plaited bamboo, etc.

58. The salaries of labourers and others of similar grade vary from £A.66 to £A.90 per annum inclusive of rations and other issues. The salaries of graded members of the Local Civil Service and in similar levels in commerce, vary from between £A.114 and £A.732 per annum. Having regard to produce and shell and other sources of income including store-keeping, it is conservatively estimated that today, the per capita income of the Solomon Islander (including men, women and children) is of the order of between £A.7/10/- and £A10. per annum. It may well be considerably more.

59. The above sets out briefly and in very broad outline, some of the means by which Solomon Islanders participate in the European cash economy. The effects on land tenure will be given close attention as this Report proceeds.

60. It suggests, however, a number of questions which cannot be answered here but which would merit the attention of administrative officers, economists, and anthropologists. These are:-

- (a) What is now the place of traditional reciprocity and to what extent has it been modified or replaced by a system of monetary credit?
- (b) How does the primitive monetary system fit into the new economy?
- (c) What are the effects of participation in the cash economy on kinship and social organisation?
- (d) How is the new wealth distributed and spent?
- (e) What is the precise nature of the new needs, wants and values which encourage further participation in the cash economy?
- (f) How are the attendant evils to be controlled?

(D) Mission Organization

61. Five mission societies are at present operating in the Protectorate. These are the Melanesian Mission (Church of England) the Roman Catholic, the Methodist, the South Seas Evangelical and the Seventh Day Adventist. It is estimated that more than four-fifths of the population adhere in varying degrees to one or other of these bodies. The Roman Catholic, Methodist and Seventh Day Adventist missions are established in the Western Solomons, all five operate in the Central District, and all but the Methodist Mission are established in the Malaita and Eastern Districts. Only three main

islands or groups, namely Isabel, Florida and Santa Cruz, have a single mission.

62. Besides spiritual work, all missions undertake considerable responsibilities in the fields of medicine and education. Until six years ago, the entire responsibility for education rested with the missions. While Government is now making a significant contribution, the bulk of this work still remains with the missions. For this reason, the Solomon Island mission teacher who discharges spiritual and educational duties is a powerful figure in each village community, and normally figures prominently in political, social and economic affairs.

63. Until after the war the five societies functioned primarily as missions. Signs exist however among three of them, namely the Melanesian, the South Seas Evangelical and the Seventh Day Adventist, that organization is moving towards that of constituted churches. This manifests itself in a series of church committees, associations, conferences and councils, in which Solomon Islanders are encouraged to take a more equal part with European mission leaders.

64. Sectarian differences obtrude themselves no more than elsewhere in Colonial territories, but feeling runs highest when conflict occurs over land matters. The first Lands Commissioner commented frequently on sectarian feeling when hearing claims. In his report on one of these he stated:-

"The extraordinary interest in the case seemed out of all proportion to the land involved; the constant attendance at the Inquiry of the Deputy for the Natives, of the two Sydney and two local representatives of the Mission of the Chairman of the Mission, of over 200 natives and the maintenance of the already mentioned vessels (four) in the harbour must have cost hundreds of pounds: the disputed land on the other hand, was about 11 acres in extent, had been leased at 10/- per annum, and would have a freehold unimproved value of £2 to £3."

The claim in question occupied the Lands Commissioner on the site itself for 18 days on the first attempt at settlement and following protracted correspondence, for a further three days on his return to the site six months later.

65. While cases of homeric proportions involving sectarian feeling have not been unknown during the past 30 years, since the war they have been happily rare. Although the church affairs of Solomon Islanders are better organized than they were, the fires of the past still smoulder. Local revenues are still linked either directly or indirectly to the produce of land and sea. It would be unwise when putting into effect any overall policy which might be decided on in consequence of the submission of this report, to discount the strength of any sectarian feeling which it might stimulate.

CHAPTER VI

LAND TENURE INTERESTS OF THE LINE AND LAND GROUP

The principal characteristic of Solomon Islands land tenure is that interests in land are held jointly and severally by a number of men, women and children who, being in kinship or social relationship to one another, form a group. Although individualism has emerged in many areas the social group is still paramount. The main land holding units are the line and the land group. In the previous chapter their relationship in the social organization was described. In this chapter, an analysis will be made of the nature of the interests held by these groups and the persons composing them.

Nature and Basis of Land Interests

2. Early understanding of Solomon Island land tenure veered between a concept of strict communism and one of strict individualism in which land, like Gaul, was divided into three parts, viz. town lots, garden lots and the bush. This was overlaid by the view that before Europeans came, Solomon Islanders did not "think" about land, but like us before the air age, took it for granted. All these concepts had an element of partial truth; but the indications are that land tenure was a good deal more complex and fluid than what it seemed. This was especially so where population pressure occurred as in the Reef Islands, the salt water islands of north Malaita and Santa Ana.

3. In former times most lines and land groups lived inland and exercised discursive acts of occupation, namely residence, cultivation, hunting, fishing or gathering over a rough geographical area, river valley, plateau, series of ridges, promontory or area of plainland. Several groups might occupy an area in common, but each line within each land group had its sacred place where the spirits of ancestors were propitiated. It was probably easier then as now to identify acts of occupation than the areas over which the acts were carried out. Except in closely populated regions, each vaguely defined area was surrounded by a kind of no man's land of hilly forest land which was seldom visited except on journeys to neighbouring groups. Such journeys appear to have been rare since sorcery was widely feared and violent death was prevalent. There were variations to all this, but broadly that was the picture.

4. Today, the move to the coasts and the development of new attitudes towards land have changed all this. Interests are more

sharply defined especially, on the coasts. Sometimes migration to the coasts was slow and is still going on in many areas. In other cases it was rapid. Many bush lines claim all land between their present habitations and the coast, while coastal lines claim long funnels back to their former bush lands. Intense competition has occurred between different migrating groups moving on conflicting diagonal lines of access to the coasts. In some cases coastal groups have been separated from their bush lands by other groups who have settled in their rear. Few abandon their claims to bush lands. Even if they did so any attempt by other groups to supplant them would be resisted. The whole problem of competition for coastal lands will be examined in detail later.

5. The basis of the customary title held by a line or land group is generally as follows:-

- (a) that the original ancestor of the line was the first to settle on the land or that the ancestors or the present members themselves acquired it by discovery, right of conquest, purchase, gift or some other customary mode of transfer and were able to hold it, if necessary by force of arms;
- (b) that the ancestors of the line have from time immemorial exercised discursive acts of occupation, ownership and other user over the area;
- (c) that the present members still continue to exercise such interests;
- (d) that the ancestors of members of the line propitiated the spirits at certain named sacred places situated within the boundaries, that no one else did, and that in the case of pagans they still continue to do so;
- (e) that persons who are non-members of the line but members of the land group acquired their secondary interests in the land by some secondary relationship or in accordance with some recognised principle of transfer from members of the line;
- (f) that other groups recognise and respect the nature and basis of the interests held over the area.

6. Individual interests of members of land groups may be divided into two kinds, primary and secondary. Primary interests are usually derived by inheritance, though in some instances they may be acquired by purchase or some customary mode of transfer. Only members of the actual line within the land group can hold primary interests. Each member of the line is regarded as having a joint and equal primary interest in the actual soil of the land, and if on the coast, of the reef which adjoins it. Such interest differs from those interests which each member of the line has acquired in the land by his own

efforts. Normally such interests constitute a right to use specific plots. The method of establishing such interests differs for persons holding primary as against secondary interests.

7. It is usual for members of the line to confide jointly the guardianship of their primary interests to the head of the line, who is expected to consult all primary interest holders if any major transfer of interest in the land is contemplated. The essential characteristic of a primary interest is that the holder can clear virgin forest for the purpose of growing subsistence crops without seeking anyone's permission, providing he does not interfere with the cultivations of others. If cash crops are to be planted, it is becoming usual for a man to be required to consult with other primary interest holders.

8. Secondary interests are usually no more than rights of usage, and never constitute an interest amounting to ownership in the actual soil. They are acquired either by birth into secondary kinship relationship to members of the line, or by seeking and receiving permission to cultivate a plot of land, by inheritance, or by some customary mode of transfer. Secondary interests can sometimes be converted to primary interests if every primary interest holder dies out. Persons who are in secondary kinship relationship then assume principal control in the land. In the matrilineal societies, a line of the same clan usually assumes the primary interests, while in Malaita and other patrilineal societies, men born of female members of the line - i.e. in To'obaita persons who are Ngwaikwalina - establish prior claim. Normally secondary interests are freely granted to plant food crops, but there is increasing restriction on cash crops, especially permanent economic trees such as coconuts. Secondary interests may be granted for a cycle of plantings, a lifetime or in perpetuity, in which case they may be bequeathed. Once granted there is no right of redemption, though claims to redeem are becoming frequent.

9. In the patrilineal and bilateral societies the land group is generally autonomous in respect of each of its holdings, primary control of course being effected by the line. In the matrilineal societies of the Central Solomons and San Cristobal, this is not entirely the case. In Guadalcanar close affinity exists between lines of the same clan in the one tribal community. While the transfer of minor interests to non-members of the group can be undertaken freely, alienation by formal lease to Europeans now seems to require consultation and agreement between lines of the same clan in the tribal community. This occurred when the lease of Ilu farm was negotiated by the Government. It also seems that similar consultation would occur if people of, say, Malaita, wished to acquire interests in land in the vicinity of Honiara. Indeed in this case the whole tribal community might be consulted.

10. In Florida and to some extent Savo, it was suggested by some informants that a primary interest holder of X line which

belonged to Y clan shared primary interests with every line of Y clan all over Florida or Savo. In Savo, some went further and said that such interests extended to the lands of all groups of Y clan all over the Central Solomons. Close analysis of past transactions and present practice showed clearly that in neither case was this in fact so. It is possible however, that in future transactions with Europeans the Guadalcanar practice will be followed.

11. The precise relationship between lines of the same moiety or clan, of the same and different tribal communities in San Cristobal, is by no means clear, but it seems that in Santa Ana, Santa Catalina and Ugi, lines of the same clan would be required to consult before any one of them can undertake any major transfer of interests. For example, at Santa Ana, all the authorities of lines attaching to the Amwea moiety were consulted, before permission was given to the local Church of England priest to establish a district school on the Hanginigini land held by an Amwea line. In Arosi it was stated that lines are completely autonomous, though there is doubt about this. On the other hand in Bauro, when land known as Humo was recently sold to the Government, the Atawa line, which were the holders, appointed three land authorities to negotiate; eventually the purchase price of £A30 was shared out to all primary interest holders of the Atawa clan as far east as Funarite on the borders of Star harbour. On the other hand, in the case of public land at Waimasi purchased in 1913, the sole survivor of an Atawa line sold the area and kept the purchase price. The transaction was not widely known, because in those days movement was restricted. This could never happen today. In general, it seems desirable to encourage the autonomous principle, since any other approach would become unmanageable in the future.

12. Identification of lines and land groups in patrilineal and bilateral societies is relatively easy. The name of the group usually derives from the land it occupies or a particular place within the land. Thus in Roviana, the Dude, Vuragare and Kalikoqu peoples are identified with their lands by name. The same applies to groups on Malaita. Variations do occur; for example, the name of the first ancestor is used and very occasionally the name of the totem or even the name of the head of the group.

13. On the other hand, in the matrilineal societies of the Central and Eastern Solomons, the position is confusing. Although the land group may be identified with two or three lands, each one of which has a different name, the name of each group is taken from the clan of those members with primary interests in the land. Thus among themselves, the people will simply speak of "the Haubata people of Visale" even though there may be two or three distinct land groups among the people of the Haubata clan living in the Visale tribal community. Since the name of the land with which the land group is identified is always different, it seems desirable to encourage the use of the actual name of the land which the land group holds, as well as the tribal community. This is becoming common in Ysabel.

14. In concluding this section it must be emphasised that nowhere in the Protectorate is there any understanding of the expression "land group" nor in any two places is there the same concept of "line", although the latter is in fact extensively used in pidgin English. To ask a person the name of his land group will merely invite a blank stare. To ask him what line he belongs is to evince half a dozen possible answers, any one of which might partially be right. It will only be by means of careful analysis of the nature of his interests vis à vis other persons with interests in the same land is it possible to determine the nature of his relationship to the land in question. With some reservations, which will be made clear later, the general principle may be laid down that in patrilineal and matrilineal societies a man normally holds primary interests in one land group, but may have secondary interests in several land groups. In bilateral societies, he may have primary interests in two or more land groups and secondary interests in several.

Boundaries

15. A Solomon Islander giving evidence to the first Land Commission, summarised very briefly one of the essential differences between native and European concepts of land tenure in former times, when he said that "his land was not like the land of the whiteman, in that it had a name only and did not have four sides like a box". While this generalisation probably did not apply to areas where inter-tribal fighting was intensive, or where population pressure necessitated a close definition of land interests, it was probably true in most of the larger islands, and indeed still applies today in the sparsely populated interiors. But regardless of the past, Solomon Islanders living on the coasts or in easy access of them, today, are intensely conscious of their boundaries; this applies not only between land groups but in respect of interests between individuals within the groups themselves. The importance of boundaries or "spearlines" as they are called in pidgin English, was one of the first lessons learnt by Solomon Islanders in their early dealings with Europeans.

16. Boundaries, which are seldom straight lines, generally follow natural features such as streams, rivers, ridges, edges of hills, marked trees, lines of trees, rocky outcrops and the like. In Santa Ana and the Reef islands, coral stone walls or cairns, laboriously built but seldom maintained, are to be found. A few enlightened copra producers on Malaita, Ugi and Santa Ana, have constructed barbed wire fences on European lines, but these are as much to confine pigs and cattle as to mark boundaries. In other cases wooden or steel pegs have been driven in the ground, while for court cases, boundaries are "run" by clearing the jungle. For the most part however, natural features are followed and respected, but frequently, to the uninitiated, these are difficult to distinguish. On the sea coasts, front boundaries extend to include fringing reefs, while side boundaries usually run directly inland. It is the back boundaries which cause difficulties and confusion, since these are seldom clearly known.

17. While every man knows the boundary of his cultivation plots and groves of economic trees, not every member of the line, let alone the land group, knows the boundaries of his group's land. This is usually left to the land authorities and in some cases to old women who often have very accurate knowledge of the group's holdings. In the Shortlands, such knowledge tends to be confined to the descendants of the chiefs from Mono, who acquired the Shortlands and Fauro by conquest, and then allocated blocks of land to the different clans, from which have emerged the present land groups. Generally however, it is the land authorities who have the most reliable knowledge.

18. The jungle and hilly nature of Solomon Island terrain makes normal survey methods costly. At the same time aerial photographs reveal few boundary features which can be used in the preparation of survey plans. It may prove necessary for sketch plans to be used extensively in connection with native land tenure. To meet these circumstances a greater use could be made of local names to describe geographical features. Generally such features are minutely named and this would assist identification. From sketch plans they could be transferred to larger maps. Over the course of years a large store of geographical capital is then built up. Solomon Islanders might also be encouraged to pursue straight line boundaries and plant lines of trees or keep them clear. Alternatively it might be useful to devise a simple, permanent and cheap boundary peg to stand up to jungle conditions and the people encouraged in its use.

19. Finally it is necessary to emphasise that few Solomon Islanders have any concept of distance or area, and discussion in a court of an abstract piece of land is quite meaningless. It is therefore essential that in all land cases the Court should examine the boundaries in a disputed area before commencement of proceedings, and reach complete agreement with the parties as to what is in dispute. This should be formally recorded, together with the names of the persons who accompanied the court and their position in the proceedings. The practice was meticulously followed by the first Lands Commission, and failure to do so since has led to unnecessary confusion and the rehearing of cases.

Sacred Places

20. To Solomon Islanders, an important element in the proof of primary interests in land, is knowledge of sacred places or groves (Beu Ambu - Bali, Malaita; Vunuha - Florida) associated with the pagan customs of their ancestors. To the few pagans still remaining these of course still have considerable practical significance. Usually, sacred places are where the priests of the line propitiated or invoked the spirits of dead ancestors (Akalo - north Malaita; Tindalo - Florida). Sacred places also include the sites where the dead were disposed, such as the floors of houses in the Santa Cruz group or the skull houses of Santa Ana. They may also include certain trees or rocks which in San Cristobal are believed to be the haunts of ghosts and spirits of mythical beings. In coastal areas, particularly Arosi, San Cristobal, Langa Langa, Malaita and the Marau

salt water islands, sacred places occur on coastal reefs. There, sacrifices were offered to sharks, believed to be the incarnations of the ancestors. At Haleta in Florida, land authorities spoke of the sacred places as "pegs" (meaning survey pegs) or marks of ownership in a group's land, and this illustrates something of the identification between sacred places and evidence of primary interests.

21. The significance of sacred places in land tenure stems from the importance attached, in former times, to propitiating the ancestors or disposing of dead bodies on land or sea in which the dead held primary interests. To do otherwise, would be to invite the attentions of enemy sorcerers, endanger the living, extinguish the potential power of a new spirit and generally to court disaster. These beliefs are still firmly held by pagans and although most Christians no longer adhere outwardly to pagan beliefs, few are unconscious of the power of the Akalo. In consequence sacred places are respected. It is noticeable however that Christian cemeteries are not regarded with the same awe.

22. Sacred places are normally located in the vicinity of old settlement sites. Today many are overgrown. The only sign of their existence is a low mound of rubble and rock or a circle of stones which, in the case of San Cristobal, might once have been 30 feet high. In Baelalia, north Malaita, roughly worked stone altars are to be found, while in Longgu, Guadalcanar, and in New Georgia, the remains of carved wooden figures still exist. Significant remains are seldom seen however. Despite this, the land is never cultivated, nor is the undergrowth disturbed; women avoid them; the ordinary man regards them with fear; youth, often in the third generation of Christianity, treats them with brash but nervous scepticism. Desecration of such places is actionable in the native courts. Only recently a Choiseulese married to a Malaita woman in north Malaita is alleged to have died because he attempted, unwittingly, to cultivate a sacred grove within the land of his wife's line.

23. Evidence regarding sacred places is nearly always hearsay. It is accepted, because it would be a brave Solomon Islander who lied about such matters. It has also become a traditional element of proof. The time will come, however, when such evidence will be fabricated. Meanwhile it should be accepted with critical reservation. The courts must be satisfied that witnesses are in fact knowledgeable on these matters, that the names of ancestors associated with such places are corroborated, and that the significance of the rites practised there is known and understood.

Descent

24. It is relatively easy to determine the nature of the interests which are exercised in an area of land. It is more difficult to define the precise limits of the area. It is very difficult, however, to decide why each member of a group exercises the interests he does, and who else may do so if he chooses.

Principally this is governed by rules of descent, interlaced with rules of inheritance and customary methods of transfer. The last two aspects will be dealt with in a later chapter dealing with the transfer of interests.

25. Adoption excepted, rules of descent regulate membership of a line and acquisition of primary interests. With a few exceptions, to be referred to later, Solomon Island societies are unilateral, descent being traced through either the father or the mother. In unilateral societies a man can acquire primary interests by birth only in the land of one line. He may, however, in the course of his lifetime acquire secondary interests in the lands of several lines. Patrilineal societies are found in Choiseul, Malaita, Ulawa, Marau saltwater islands, Guadalcanar, Sikaiana, Lord Howe and Tikopia. Matrilineal societies exist in the Shortlands, throughout the Central Solomons district, San Cristobal, Ugi, Santa Ana, Santa Catalina, Ndeni, the Reef islands, the Duffs, Vanikoro and Utupua. The qualification should be made in respect of matrilineal societies that a tendency exists to repudiate matrilineal principle but this has not reached major proportions. Among the people of the Marau saltwater islands (immigrants from Ariari) intermarriage with the matrilineal Guadalcanar people has brought its confusions; basically, however, it is still a patrilineal society. In Malaita, and particularly Ariari, some are claiming that in respect of land matrilineal and patrilineal descent have equal status. Such claims do not receive general support.

26. The exception to the unilateral principle is the New Georgia group. Irrespective of the position now, every indication exists that in pre-protection times the matrilineal rule applied. This was the conclusion come to by the first Lands Commissioner, Mr. Phillips.¹ At the time of his enquiries (1920-1924) he found that in Vella Lavella, the matrilineal system was still intact, though signs of breakdown were to be seen where Choiseul immigrants had become established. In Kolombangara, Roviana and Marovo, on the other hand, he found that bilateral descent (i.e. descent through both parents) had been established for some time. The Lands Commissioner found difficulty in ascribing reasons for the change, but came to the conclusion that the following influences were responsible:-

- (a) Chiefs had succeeded in having their sons recognised as holding primary interests in their lands - an example others would imitate.
- (b) The men did the talking and negotiating regarding land.
- (c) It was customary for economic trees which a man planted to be inherited by his son.

1. F. Beaumont Phillips "Report on Native Claims 30-37,55."
(Levers' cases) paragraph VIII pp. 44-61; 21st April 1925
(unpublished).

- (d) European concepts of patrilineal descent had weakened the peoples' regard for their own custom.
- (e) Confusion had been caused by inter-marriage between different lineages.
- (f) The residence of refugees with patrilineal rules of descent, adoption of sons, and residence of the married children with the lineage of either parent.

The effect of these influences, together with inter-marriage between distant communities and the fact that movement is a good deal freer now than 60 or even 30 years ago, are still good reasons for this change.

27. Changes in New Georgia have continued since Mr. Phillips wrote his reports. Today, the bilateral rule is well established in Vella Lavella though some resist it. In the Marovo, its extension has continued slowly. In Roviana however, it is having a chaotic effect, since the bilateral principle has now become composite. Whereas at the time of the first Lands Commission primary interests were being doubled, they are now quadrupled. What this amounts to, is that if A of Kusage married B of Kazukuru, and C of Kalikoqu married D of Wana Wana, and child X of A and B marries Y of C and D, then child M of X and Y holds primary interests in the land of Kusage, Kuzukuru, Kalikoqu and Wana Wana. This is based on an actual case of a former headman of Roviana.

28. The confusion being caused by the bilateral principle is extensive, but its manifest undesirability is not appreciated by the people. Older people make little comment, and seem to accept it simply as "fashion b'long this time" while younger ones state flatly that they want to "enjoy all the fruits". While marriages within lineages will serve to control the multiplication of interests, this is offset by increased intercourse between tribal communities, leading to marriages between persons widely dispersed throughout New Georgia. Disputes will become prevalent, and the multiplication of interests will, in time, be restrictive to economic development or a modern tenure system. It is considered that the problem should be tackled through Local Government first of all, by bringing to their notice the dangers attendant upon bilateral descent. They should be persuaded to adopt either a patrilineal or matrilineal principle throughout the respective Council areas. If this is unacceptable, the ambilateral principle (i.e. descent through the father or the mother but not both) should be proposed. If this fails, it is suggested that the position warrants intervention by Central Government and the enactment of legislation to restrict descent to the ambilateral principle. Only in this manner can the multiplication of primary interests held by an individual be controlled.

29. The problem of descent in New Georgia has been dealt with at some length. This is because it can be expected that in the course of one or two generations, a breakdown of the matrilineal principle will occur in the Central and Eastern Solomons, while in

Malaita attempts will be made to introduce the bilateral principle. Clearly it would be unwise to allow the problem to drift as in New Georgia.

30. In this connection speculation as to the reasons for the matrilineal rule are interesting - but no more. Mr. Phillips questioned the Rovianas and others about this. Some simply said it was "fashion b'long before" while others just did not know. Others seemed to think that as the woman was visibly "la source" the child should naturally be of her line; that the woman was more attached to the soil and the "place" of the clan or lineage, the man the rover. She was "more strong along ground" and the child therefore belonged to her clan. Still others referred to the amiability of certain unmarried women and quaintly paraphrased the proverb that it is a wise man that knoweth his father. All these explanations have been tendered to the present Commission. But the solution seems to be deeper. A clue emerges in Guadalcanar and San Cristobal. There, older men "think" of the clans and moieties as "different people". They claim that members of each clan or moiety have different physical characteristics, and say they can identify a man's clan by the lines of his hand, shape of his head or which foot he steps off with when he starts walking. In addition, in San Cristobal, Atawa are supposed to be fair, Amwea dark. Atawa are clever, while Amwea are stupid. If the thesis of Dr. Rivers' work "The History of Melanesian Society" is true - namely that the Melanesians are the result of a series of migrations of men, usually unaccompanied by women; that the aboriginal inhabitants which the migrants found had both women and land, which the immigrants did not; that the immigrants needed these to survive; that the aboriginals sought to retain control of both and that this is implicit in the terms of relationship and survivals of ancient customs; if all this were true, then it is an explanation for a system of matrilineal descent.

Genealogies

31. To the ordinary land litigant, no court proceedings would be a "true court" unless he had been allowed to recite, sing or enter his "generation" or genealogy. Having done so, often with little explanation, he is complacent that irrefutable proof has been submitted. He is pained if questioned about it, since in his mind its significance is patently clear. He is hurt and angry when his opponent is allowed to criticise it or produce an alternative, which is usually quite unrelated to that already proclaimed. Briefly, enormous importance is set by the generation. Some even believe it to have magical properties. Something of this was seen during the enquiries of the present Commission. Despite the most careful explanation of its objects, and in particular that the Commission was not concerned with the settlement of disputes, old and young came from near and far to "tell their generation" and "prove" their claims to particular plots of land. Few could relate their "generation" to the history of the land claimed.

32. When administrators first began to concern themselves with

native land, the recitation of genealogies was a social institution, vested with certain functionaries, usually pagan priests. Almost certainly it was not directly related to proof of interest in land. Solomon Islanders had no customary method of recording title, and no one could read or write. Administrators therefore paid considerable attention to genealogies. In addition they were the object of considerable interest by anthropologists. At that time, few Solomon Islanders thought of falsification. Those who spoke were the acknowledged experts. Today all this has changed and first principles have been lost to sight. Though each line still has a genealogical expert, everyone has learnt a little of his own genealogy. Such knowledge has become vital to maintaining land interests. If he can't recite it, someone will write it down for him. Accuracy matters little. Other factors have been at work too. Its significance is usually neglected. Social organization is not so strict as it was. Rules of social behaviour have been forgotten, or changed. Certain custom still remembered no longer has any real significance. In consequence, genealogies do not follow the formal patterns they did once. Furthermore, as in most primitive countries, high regard is paid to the written word. Partly educated Solomon Islanders perceiving this, and appreciating the value of choice lands, have not been slow to appreciate the gullibility of their more primitive fellows and the confusion of the administrators. It is easy to fake a genealogy and easier still to obscure vital points. Furthermore, the Marching Rule movement, with its emphasis on reversion to custom and the preservation of land resources from "exploitation" by Europeans has encouraged and stimulated interest in the compilation of genealogies. Hundreds of exercise books have been filled with them, and not all are accurate.

33. Administrators have had a difficult time. Without a satisfactory lingua franca, seldom stationed in one place long enough to understand local custom, and overburdened with increasing responsibilities, few have been able to give time and thought to the complexity of conflicting genealogies. Furthermore little attention has been given to the actual significance of genealogies. They tend to be taken for granted and accepted without question. Thus the Solomon Islanders belief in the magical properties of the "generation" has been fostered.

34. The principle significance of a genealogy is to show kinship relationship between living persons exercising interests in the land, and between those living persons and their dead ancestors who may or may not have exercised similar interests. The precise kinship relationship between all persons in a genealogy is directly related to the nature of interests which were or are exercised, overlaid by customary rules of social organization and behaviour. Even so, it must never be forgotten that genealogies are based on hearsay and that in former times, not everyone was an expert. Genealogies should be subjected to close critical scrutiny when submitted as evidence in land disputes.

Marriage

35. In this section a brief description will be given of certain principles of marriage as they affect land tenure either directly or indirectly. The remarks are general for local differences are numerous.

36. In societies where the matrilineal clan/moiety system prevails, namely, the Shortlands and most of the Central and Eastern Solomons, the exogamy principle requires that a man should marry a woman of another clan or moiety. With matrilineal descent, the effect of this is that a man's children acquire primary interests in the lands of the mother's line, and not the father's. Interests in the land of the father's line would be no more than secondary. Throughout the area there are signs that exogamy is breaking down. At Tasimboko on Guadalcanar, the leaders frankly and publicly opposed exogamy, and said that the law of Church and state adequately provide against forbidden relationships. They said that in some villages, certain clans preponderate and it is mechanically impossible for exogamy to be practised. They believe that non-exogamous marriages are prolific of strong children and they point to the New Georgia societies as examples. Such frank statements are exceptional. Most people publicly support the principle but ignore the breaches which come to their notice. The principle still received general support in Ysabel and Florida, while in Melango/Vulolo, an offence against it in 1952 caused murder, conviction and subsequent execution. The missions are divided on the question. Native courts award compensation if cases are brought before them. It seems likely that in the course of the next generation or so, the exogamy principle will disappear along with matrilineal descent. This will have a considerable effect on the customary tenure system.

37. Elsewhere in the Protectorate, the nature of customary forbidden relationships are governed by kinship, but are subject to wide variation. Broadly, a man is forbidden to marry a woman he would call "mother", "sister" or "daughter" in the classificatory sense. But different communities apply such terms to different relatives. In Kwara'ae cousins twice removed are called sister while in Baelalia, cousins five times removed are called sister. In other places first cousins do not call one another brother and sister and often marry. It is complex and confusing, made more so by the break down of traditional custom and the growing acceptance of European ideas on the subject.

38. Preferential marriages are common among all societies but more especially in the Central and Eastern Solomons. Despite mission influence, the cross cousin marriage is still well regarded as also is sister exchange, marriage with the brother's widow or the brother's wife's sister, and marriage back into the father's clan or lineage. These forms of marriage relate, in part, to a desire to keep land interests within the wider family group.

39. In all societies the social bond of marriage is marked by

the exchange of gifts and presents. In all but Roviana, Marovo, Ysabel, the Malango/Vulolo area of Guadalcanar, Tikopia, Anuda, Sikaiana, and Lord Howe, marriage is accompanied, in addition, by definite payment of a bride price. The bride price is normally payable in "primitive currency" which may be strings of shell or coconut discs, porpoise or dogs' teeth, shell arm rings, or coils of red feather money. All these "currencies" have a limited liquidity in terms of European money. Rates of exchange vary with supply and demand, and the value of European money. The bride price is seldom fixed in a particular community, though unsuccessful efforts have been made by both Government and Mission to limit the amount in some islands, notably Malaita. The rate is fixed by agreement between the relatives of the parties concerned, regard being paid to such factors as the quality and capacity of the bride, the status of the parties, supply and demand, the wealth of the purchaser, and usually the nature of other gifts exchanged. Normally the bride price is only one element of a series of protracted negotiations.

40. Unlike many other traditional social institutions, little sign exists of the disappearance of the bride price. On the contrary, it has recently spread into areas such as Wainoni and Bauro, San Cristobal, where before it did not exist. On Malaita, it is stronger than ever, particularly in Koio where phenomenal prices (over 100 strings) are being paid. In Ariari however, diehard pagans favour the reduction of the price for fear that past high prices are swamping the district with Christians. All the evils are present - endless obsession with sexual taboos, the complicated negotiations for the return of the money, the problem of default or barrenness of the woman, the problem of custody of the children if the woman dies young, high prices and the difficulties relatives have in assembling them, complexities of customary credit and finally, of course, the effects of late marriage on the woman's child bearing capacity. The bride price is one of the least attractive characteristics of the societies concerned, and it is scarcely surprising that places like Roviana and Ysabel look upon the bride price areas with scorn.

41. Where a bride price is payable, residence is normally patrilocal, though circumstances, such as availability of land, difficulties with parents-in-law or simply preference might cause residence to be matrilocal. Dual residence is quite common. In the Shortlands, the chiefs compete on the matter of residence, and marriages are sometimes forbidden unless the couple agree to reside in a particular chief's village. Turning now to places which do not support the bride price. In Roviana, Marovo and Ysabel, residence is now left to the couple to decide, though in former times the matrilocal principle applied. In Malango/Vulolo, residence is usually matrilocal or dual. Elsewhere residence is patrilocal.

42. Besides the question of residence, in matrilineal societies, the payment of a bride price usually requires that the first born son should be named by the father's kin, and regarded as adhering to their line. If the society is matrilineal, he becomes a member of his

father's land group and can exercise secondary interests in the land. In the course of time, if he is well regarded, he will be permitted to provide feasts (which must include pigs) for his father's line. Thereby he can convert secondary interests into primary interests and these can be inherited by his children. In patrilineal societies, the children belong firmly to the male side.

43. By entering into marriage, a man acquires a new set of relatives. His wife, by birth, depending on the nature of the society, has primary or secondary interests in the land groups of her father and mother. Normally the husband has enough land of his own, but if not, or if he lives with his wife's relatives, he can exercise secondary interests in the land of his wife's group. Such interests are usually limited to the woman's lifetime, and cannot be bequeathed unless the society is matrilineal, in which case his children would inherit them as primary interests. In the patrilineal society of Tikopia, a father usually allots his daughter upon marriage a life interest in one or two plots. Upon her death, they revert to the male line. An exception to this may occur in the case of a chief's daughter marrying a landless immigrant. Children may cultivate their mother's lands until they marry, when they use their father's lands. In the Reef islands on the other hand, a man allocates a plot to his daughter on marriage, and this passes to her absolutely on the father's death. It is not redeemable by her family and she may bequeath it as she chooses. However, in practice, her husband exercises considerable influence.

Authority and Succession

44. Analysis of the nature and basis of authority and succession in land is difficult. Four reasons account for this; first, societies and their customs are diverse; second, many of the early anthropologists and administrators were defeated by it, and in consequence knowledge of the past is limited; third, the nature and basis of authority has undergone much change, particularly since the war; and fourth, European concepts of more easily defined Pacific societies run in fixed grooves. Due to the work of Professor Raymond Firth, knowledge of Tikopian authority is extensive.

45. It is proposed first of all to outline in some detail the position as it appears to exist, both past and present in a particular society, namely, Roviana, from Saekile to the Wana Wana. This area is chosen because the complexities which have arisen and the solutions which have been evolved are in some measure typical of the rest of the Protectorate. Furthermore, matters of principle are raised in relation to the work of the first Lands Commission, which will be dealt with in a later section.

46. The following remarks about the nature of early authority are based partly on unpublished papers of the late Professor A.M. Hocart, partly on statements by Mr. H. Wickham of Hobupeka, Roviana, and partly on accounts by elderly Rovianas. The late Professor Hocart was a member of the Percy Sladen Trust Expedition to the

Solomon Islands, 1908-09; he lived at Sisiata just west of Dude in 1908 and undertook considerable anthropological research in New Georgia. Mr. H. Wickham is an elderly gentleman, a part European, who apart from periods abroad for education, has lived all his life in Roviana. He knew Professor Hocart as a young man and his knowledge of the Roviana is extensive.

47. In former times the population of the Roviana was much greater than today. The people lived inland, on the coasts, or on small islands. Tribal communities, of which there were many, were settled in sprawled out villages consisting of many hamlets of two or three houses. In charge of each hamlet was a Palubatu, or elder, who was head of a wider family group. The main function of the Palubatu was to listen to and do the bidding of the Bangara or chief. Each tribal community, and even each lineage might have one, two, or three Bangara. In 1908 Kokorapa had six, Vuragare two, Kalikoqu four and Kazukuru five.

48. The definition of the status of the Bangara is complex and even Professor Hocart appears to have been confused. Succession was both patrilineal and matrilineal. In each tribal community Bangara were usually all related, either by blood or marriage, and marriages were arranged to that end. There was some evidence that all of them, regardless of tribe, traced their ancestry to a common source. In each tribe the Bangara appeared to work in perfect amity - if one proposed, all would agree, much the same as at Tikopia. Suzerainty did not apply however. Authority was normally restricted to their own tribe or lineage, but their status was recognised elsewhere in New Georgia and even as far away as Kia in Ysabel. At the same time the Bangara of one tribe could seek and get the assistance of Bangara of another tribe. Sometimes two groups would be at enmity and a third Bangara would intervene and make peace. Occasionally women were made Bangara.

49. The functions of the Bangara have been obscured by the much publicised part which they allegedly played in head hunting operations throughout the Western Solomons; and it is in the capacity as a head hunter that the present day Roviana think of the last pagan Bangara. But head hunting was only one aspect of the social system. It is significant that Professor Hocart recorded that the provision and organization of feasts were their primary function. Similarly, Mr. Wickham, in elaborating the whole complicated ritual of head hunting - from the moment when a Bangara first commanded the clearing of land to produce food to feed the warriors, through each stage of the construction of Tomakos (war canoes), and finally to the day of the ceremonial hanging of heads in the skull houses - said that the provision of feasts was an integral characteristic of the whole cycle of the head hunting ritual.

50. The Bangara did not have to grow every morsel of food; but he would not be a Bangara if he could not organise its provision. Nor would he be a Bangara if he could not organise the different skills required - from the ritual utterances of the pagan priests at each

stage of Tomako constructions, to the unbelievable accuracy with which the slaughtered pigs were divided among the people; from the helmsmen who steered the canoes by the stars, to the axemen who cleared the forest for the food gardens, or those who directed the ceremonial dances. The Bangara discharged his obligation by distributing food. He settled petty and major disputes, assisted his people with gifts necessary in marriage, cared for sick relatives, attended on other Bangara and provided a hundred other services. The people "listened to his prayers" (orders), did his bidding, and ate the food he distributed. In brief, the Bangara was an organiser of land and labour.

51. At the beginning of the century, before the people had started to grasp European concepts of landownership, Hinquava, Gumi, Gemu and Veo were all leading Bangara of what is now called the Kazukuru tribe. All but Hinquava held primary interests in the Kazukuru tribal lands. Hinquava, whose mother was a Marovo woman, held primary interests in the Marovo but not in the Roviana. All these men played a part in the sale of lands to Europeans. About this time (1908) the Kazukuru people discovered that they had lost some of their lands at Hawthorn Sound to Levers in consequence of the Government's waste lands policy. Professor Hocart recorded that Gumi discussed the matter with Gemu and it was agreed that Gumi should speak to the Government, but that he should be supported in this by Gemu and Veo. Subsequently, Gumi and Gemu were prominent among the native claimants against Levers which were heard by the first Lands Commission.

52. Today, leaders of the tribes, which thirty years ago were concerned in the claims, state that Bangara, such as Gumi and Gemu, had no right to speak in these matters; that they were not "land chiefs"; that because of their facility for speaking pidgin English they were accepted as such by the Europeans; that they merely sought to enhance their status above other Bangara; that their actions and statements were dictated by the Methodist Mission which controlled them in the mission interest; and finally, that the lies such men told the Lands Commissioner, caused the people to lose their lands. Today these men and their descendants are rejected and the titles in Levers' lands are still challenged.

53. To consider the first two points - rights and status. The Lands Commissioner stated in his report, that the natives attended in force and displayed great interest in the proceedings, and further that he did not believe there existed in the Western Solomons, grown natives who were unaware of the inquiry of the Commission or of what was going on. In view of this it seems hard to believe that those selected to give evidence and lead the native case could be other than Rovianas who had the complete support and confidence of the mass of the people interested at that time. That Gumi and Gemu did their best for the people is obvious from the evidence. In this, they were ably aided and supported by their own European deputy, appointed to be at their disposal and to assist them in the preparation of their case.

54. Concerning the third and fourth points, cases have occurred in the past of glib pidgin English speaking natives ingratiating themselves with Europeans at the expense of their less fortunate fellows. It would be too much to expect that the Roviana Bangara did not derive pecuniary advantage at some stage of their careers. But it is reasonably possible also, that being leading members of their communities at the time of early European contact, they should be among the first to learn pidgin English and represent their people in dealings with Europeans. Whether or not Gumi and Gemu attempted to enhance their status is now impossible to say, but the evidence points simply to them attempting to do their best for their people. Furthermore, it was customary for Bangara to choose one or two of their members to speak for them. Finally, Professor Hocart, who had a high regard for Gumi's veracity, recorded that Gumi had provided no evidence of suzerainty or precedence among the Bangara excepting possibly that of age.

55. On the question of prejudicial mission influence, the Methodist Mission was not unusual in attempting to win the confidence of the Bangara. Throughout the hearing of these claims in the Western Solomons, the late Reverend J.F. Goldie gave evidence on behalf of the people, much of which was in their favour.

56. Finally on the question of veracity, it is said that the reason why the tribes lost their claims, was that Gumi and Gemu repeatedly stated that certain groups, hitherto regarded as distinct, were now "one people". He defined "one people" to mean not merely that they were all New Georgia tribal groups but insisted that they were all jointly interested in the same land. It was stated to this Commission that this was untrue, and that this approach had been carefully decided upon before the inquiry began. Whether or not it was untrue, the doubt in these statements was in fact fully appreciated by Mr. Phillips who obviously did not allow it to prejudice his findings.

57. Today the word "Bangara" is translated by that confusing word "chief". The small population of Roviana, the former multiplicity of Bangara, the even greater multiplicity of their marriages, the enthusiasm for committing genealogies to papers, and the ready appreciation by the Solomon Islander of the hierarchical sensibilities of Europeans have all combined with the development of the bilateral descent system, to create a situation in which every second Roviana claims to be a chief, or to have chiefly status. With the exception of the Saekile and Kalikoqu tribes, the lineal descendants of Bangara have little regard paid to them. Their places in the social organisation have been taken by headmen, mission teachers and Palubatu. This latter term now covers not only the heads of hamlets but rich storekeepers, owners of cutter boats or extensive coconut groves, reputable Government servants, or anyone who has distinguished himself in the community.

58. The idea of choosing someone to represent the line and the land group in land negotiations still persists. With one or two

exceptions it is no longer the elusive Bangara. As land consciousness has developed, each line and land group has chosen one or two men, usually the eldest and most responsible competent males holding primary interests, to be in charge of the land affairs of the group. They are selected by unanimous agreement of the Palubatu of the line, but regard is paid to the rules of descent, primogeniture, or else the principle of succession by the eldest living brother. They are referred to as the Koimata of the land. Although, in the Koimata is vested the right to speak for all members of the line and land group, he will not do so, or reach any major decision affecting the primary or secondary interests of the group, without first discussing the matter with all available members.

59. The Koimata is familiar with the genealogy and history of the land group, the land boundaries, the sacred places (hopei), ancient village sites and the nature of all primary and secondary interests of members of the group. He may allocate secondary interests to strangers and re-allocate the plots of families that die out. Sometimes he is consulted before virgin forest is cleared for permanent cash crops, though this is by no means universal. He guards the land but has no right by virtue of his position to extend his own interests at the expense of his fellow members. He is first among equals. No other Koimata has suzerainty over him. Nevertheless, he will co-operate with other Koimata of the lineage or tribal community to close the ranks against a threat to the interests of all, especially where a point of principle is involved such as might arise in connection with the alienation of land to Government or Europeans. There are local variations, but these are the basic principle attaching to their functions and responsibilities.

60. Certain principles emerge from this account of land authority in Roviana which apply generally throughout the whole Protectorate. They are as follows:-

- (a) that when Solomon Islanders first began to negotiate in land with Europeans, they did so through authorities distinguished in the tribal community for their organizing capacity, and for the provision of feasts at the time;
- (b) that subsequently, as the traditional functions of such authorities disappeared in consequence of social change, the people became disillusioned about the capacity of such authorities to represent them in land affairs, especially since they appeared to have been responsible for "losing" some lands;
- (c) that as land consciousness has developed each line and land group has become conscious of an autonomy in land affairs;
- (d) that the line now chooses one or two elders holding primary interests and usually the members of its first family to "look after" the land of the line and the interests of the land group. In choosing such men regard is paid to rules

of descent and the principle of primogeniture or succession by the eldest brother. Such heads of lines or land groups are no more than first among equals.

61. It is emphasised that these are general principles, that local variations are common and considerable changes are still going on. At Kia in Ysabel for example, Edmund Bako holds suzerainty over line heads in his capacity as Vunagi thaba, a position which might be described as a "paramount Bangara". He has an overall authority in land affairs. At Tikopia, the basic theory that all lands of the Paito or land group are at the disposal of the chief of the lineage still has practical effect in the control of certain foods. At Ugi, the scope and size of the plantation and storekeeping business of Joe Konihaka, is placing him in a position of considerable status in the land affairs of all land groups. The people seek and listen to his advice. In the Shortlands, all land in Alu and Fauro is believed to derive from grants made by Poreisi, second son of Telekana, chief of Mono who led the invasion of the Shortlands 120 years ago; the theoretical suzerainty of the lineal descendants of Poreisi still has practical effect, though it is dwindling. The Malaita Council is seeking to exercise control over lines and land groups in respect of the alienation of lands to Europeans. In San Cristobal the few remaining true Araha (similar to Bangara) still attempt to retain the fiction of control over the heads of lines. These and other local variations are to be found throughout the Protectorate.

62. In particular, the Marching Rule has thrown up a whole plethora of new authorities, none of whose functions or status is clearly defined, let alone fully acceptable to the people. Even these "authorities" themselves are far from clear as to their responsibilities. They include a multiplicity of bogus Araha at Marau sound, Ulawa, Small Malaita and Ariari, Custom Committees, Village Committees and Land Committees of Ariari, the "farmer chiefs" and the Presidents of "Union farms" in Western Kwara'ae, the land chiefs of the rest of Malaita and the custom chiefs of Florida and Guadalcanar and elsewhere. All these have emerged from the post war political troubles, and they seem to reflect an unconscious rejection of the course of evolution taken by traditional authority following protection. Their precise position in relation to land tenure will be referred to in the appropriate contexts.

63. In concluding this section it must be emphasised that land authorities are not the only "chiefs". Solomon Islanders give status to persons with a wide variety of skills - from the descendants of the last Ramo or warrior chief to the last of the Fataba or pagan priests - from Dr. Hogbin's Ngwane-Inoto (man of importance) who gave feasts, to the present day Ngwane-Inoto, business man, councillor and political gauleiter - from the leader of the turtle hunt to the "cutter boat boss" who constructs and manages powered vessels - from the covert sorcerer to the "Nine Chiefs" of the Marching Rule. These and dozens of other functionaries are men of status; all are authorities and all confusingly are "chiefs" and land authorities may be any one or none of them.

The Position of Women

64. Little is known about the general position and status of women in Solomon Island societies. Closer attention in recent years has indicated however, that their power and influence is much greater than the menial position generally accredited to them. Signs exist also that their status is changing. More women and girls seek employment and education. Opposition on the part of elderly people towards women's education appears to be less. Government policy encourages these changes.

65. It is widely claimed that women can acquire and hold interests in land on an equal basis with men. The most important aspect of this is the right to plant, own, and bequeath economic trees including those bearing permanent cash crops. Closer examination however, reveals a number of general limitations and local differences. Of the former, the most important is that women do not themselves clear virgin forest, though they may assist in the lighter work of brushing, after the men have performed the heavy work of felling. They may, however, propose the clearance of virgin bush for cultivations if they see that current plots have been worked out. Unless they are the last surviving members of their line or land group, it is unusual for them to figure in public disputes over land. Clearly, however, they are consulted in land matters and their knowledge of genealogies is usually respected.

66. Local differences are governed by rules of descent, and today by the degree of emancipation which has occurred and the importance which the society places upon the payment of bride price. As a general principle, subject to the general limitations referred to above, the status of women in matrilineal and bilateral societies, in respect of land, more closely approximates that of men than in patrilineal societies. The most important qualification to this is that in the latter (including Malaita but with the exception of Tikopia) women or their male descendants can inherit full primary interests in the event of the male holders dying out. This principle was challenged in the courts on Malaita in 1952. A woman was the last direct descendant in the male line. She had no children and wished to sell the land before she died. Her right was challenged by the male members of another line, who claimed secondary interests in the land by descent; such interests had never been kept alive. The court sitting with Malaita assessors found for the woman; the principle is generally accepted throughout Malaita as correct.

67. In the matrilineal and composite societies, particularly Ysabel, women holders of primary interests are consulted in land matters and may veto any proposed transfer. Normally the males will abide by their views. They can succeed as land authorities though this is unusual if males of the line are living. However, their status in land is not recognised until they marry. Spinsters, past the normal age of marriage (they are rare) eventually acquire the status of married women in the line. Widows, particularly in Savo, unless they remarry someone of their husband's clan, are

frequently given primitive money, pigs and food to extinguish any secondary interest still remaining in their husband's lands. They then return to their own line where their primary interests can be activated. In the Shortlands, however, widows usually continue to utilise secondary interests in their husbands' lands.

68. In patrilineal societies, women have no general power of veto in land matters, and though on Malaita they may speak, and frequently do so most forcibly, this is not the case in Choiseul and other such societies. In Malaita women are widely consulted, but this does not apply in Choiseul. In parts of Malaita they may exercise a veto. In Ariari and Koio competent women may be given the status of land authority, but this would be extinguished on marriage. Payment of the bride price is regarded as an act of "freeing" the woman from the primary interests she acquired by birth into her father's line. After marriage, the interests in the lands of the father's lines are little more than secondary unless the male line is extinguished. In north west Malaita, a bush girl marrying a saltwater man may be allocated dowry plots by her father's line. In this manner, the people of the saltwater islands have, over a long period, acquired primary interests in large areas of coastal lands. At Tikopia, as mentioned before, females cannot succeed to authority in land. On marriage, however, they may be allocated a plot for their use. The interest in the plot is no more than secondary - it cannot be alienated and the plot reverts to the Paito upon the woman's death.

69. Spinsters are rare in patrilineal societies. They are provided for by the line but have no status. Widows frequently remarry a man of their husband's lineage but in the case of someone of a different lineage the interests in the first husband's lands are extinguished. If they don't remarry, it is optional for them to activate rights in the land of their fathers or continue to use the secondary interests acquired through their dead husband. In general, the interests of both spinsters and widows are governed by residential convenience.

70. The interests of women in respect of reefs are by no means clear. It seems however, that since reefs are valued principally for net fishing and the gathering of trochus shell, and as it is rare for women to take part in these activities, the question seldom arises. In theory, however, apart from claims made to reefs on an individual basis, it can be assumed that women's interests are similar to those of men.

71. While women generally play a large part in cultivating the land, both for subsistence purposes and for cash return, they are backward in initiating such activities and in consequence are less active in land matters generally than men. However, since protection, men have had more time to devote to peaceful pursuits, such as cultivation, and the burden of such work is more equitably distributed. It is unlikely that women will increase their concern in land affairs, although the introduction of any cash crop easily cultivated by women might alter the position.

Adoptees and "Slaves"

72. As elsewhere in the Pacific, the adoption of children and adults is a common institution in almost every tribal community. There is no local legislation governing adoption.

73. The ingredients of an adoption are generally as follows:-

- (a) the child is taken into the adopting parent's household, which feeds and supports it and is responsible for the appropriate ritual observances in connection with its upbringing;
- (b) the adoption is generally widely known;
- (c) the adoptee may be of the same kinship, an affinal relative, or a stranger;
- (d) the adopted child as it grows up has the same obligations to the parent as the natural born child.

74. The popularity of adoption seems to have been originally due to:-

- (a) the desire to maintain the numerical strength of the group;
- (b) a natural fondness for children;
- (c) the prevalence of orphans in consequence of warfare.

75. In his work on San Cristobal, Dr. Fox recorded five kinds of adoption as follows:-

- (a) the Marahu adoption, in which the adopted person exchanges names with the adopter, and can use and dispose of the adopter's property including land and tree interests;
- (b) adoption of children or adults taken in war or punished by banishment and sale to a distant people;
- (c) adoption of children by purchase from a distant people in order to ensure the continuity of the female line;
- (d) adoption of children at birth by being the first woman to cut the umbilical cord and shave the child's head;
- (e) adoption in memory of the dead, by which a child is adopted to fill the place of a dead man, take his name and inherit his property.

76. Not all these forms of adoption are found currently in San Cristobal today but they emerge in genealogies. Although they are typical of traditional forms of adoption elsewhere, a wide variety is

found which cannot be referred to in this report. Nevertheless it is of some importance to mention some of the motives which are still current and which will be met in most places. These are as follows:-

- (a) adoption for lack of issue - usually from a consanguineous group governed by the community's rules of descent;
- (b) adoption to bind kinship relationships or to preserve property in the family;
- (c) adoption for pecuniary gain - as for example at Ndeni a man with only sons will seek to "exchange" a son for a "daughter" thereby establishing the right to the bride price when she marries;
- (d) adoption in memory of the dead, particularly chiefs;
- (e) adoption in the case of the death of the mother in childbirth;
- (f) adoption in order to increase the family's manpower;
- (g) adoption by simple attraction - educated Melanesians for example have shown an interest in adopting children of the Polynesian islands such as Tikopia and Rennell.

77. Although in former times it was usual for money to be paid for an adopted child, Christianity now discourages the practice and even in pagan areas such as Ariari where the custom of Siwa - (d) above - was once prevalent, payment is unusual. At the same time the improved birth rate and a lower mortality of women in childbirth limit the extent to which adoption is practised. This is noticeable in the Lau lagoon, Malaita. Adoption is unlikely to die out but it may diminish.

78. The position of adopted children and adults in respect of land interests and the attitude taken towards them, varies and many Solomon Islanders express doubt as to the precise position. In most places, with few exceptions, it is normal today for adopted children to have the same status as their naturally born brother and sisters, while interests in the lands of the natural parent are usually extinguished. On Savo, however, the position is disputed, while in the north and west of Guadalcanar, an adopted child retains primary interests in its true mother's lands but acquires secondary interests from the adopting father. In the Western Solomons, Birao and Longgu, if the child returns to its true mother's line, that line would have to pay money to the adopting line in compensation for food, shelter and unbringing. This has certain currency in Choiseul, Malaita, San Cristobal and parts of the Santa Cruz group. In San Cristobal an important factor is whether or not the members of the adopting mother's line gave their consent. At Ugi, natural children seem to have precedence in property over adopted children, while at Tikopia, they look to their "true" fathers for their primary interests.

Some communities, such as Santa Ana, are concerned to ensure that adopted children never discover their status while in others, namely Bauro and Arosi, a child is usually told the name of its true father. There are many other variations. Clearly, however, in the great majority of cases, especially where the motive has been the continuation of a line or the preservation of property within a group, an adopted child is discouraged from learning its true parentage, and as far as land and property is concerned is treated exactly the same as a natural child.

79. In general, where local custom is in doubt, it may be said that the most important factors governing an adopted person's interests in the lands of foster parents are:-

- (a) mode of descent in the adopting community;
- (b) motive of the adoption;
- (c) whether the kin of the adopting parents were consulted;
- (d) whether the child was "bought";
- (e) whether payment for upbringing would be expected if the child returned to its true parents.

80. No cases have come to the Commission's notice where adoptees have suffered by reason of their status.

81. In this section it is appropriate to make some reference to the vexed question of "slaves". These are usually persons captured in battle as children many years ago. Attitudes vary from the Western Solomons, where they were normally well treated until their lives were required for some ritual or ceremony, to Guadalcanar, where they were the property of the Malagae (leaders in war), were well treated and eventually sold to a distant people to replace a dead chief. Such persons assumed all the status and property of the dead chief and reference to their origins were forbidden. At the worst, if not killed immediately, "slaves" were reasonably well treated, were encouraged to marry, usually had to labour in some measure for the chief, but eventually, if lucky, could expect to acquire full status within the tribal community. At the best, they might be treated royally. There would be few who did not acquire primary interests in the lands of their captors.

82. Early translators obviously found difficulty in providing English words for such persons, and "slaves" entered into use, especially in pidgin English. As time went on the European concept of "slaves" has developed. Today the descendants of such persons, particularly in the Roviana and Vella Lavella, are often regarded as inferior and are alleged to hold no land interests at all. Often attempts are made to deprive them of their present interests. While it is possible that cases do exist where persons never achieved the status of primary interest holders, these would be few, and care should

be taken in examining claims against persons derogated as "slaves".

Absentees

83. Irrespective of what may have been the custom in pre-protection times, the requirement that every interest in land must be kept alive by customary acts of occupation, cultivation or other user is not absolutely binding. No firm concept exists, similar to that found among the Maori, that a man is required "to keep his fires burning on the land."

84. Absentees may be divided into two kinds - temporary and permanent. The former include all those persons who leave their lands to work as wage earners (whether within the island or outside), persons who have drifted in canoes to other islands and look for an opportunity to return, persons abroad from their homes for education, persons who marry and settle elsewhere but who hope to return from time to time, and generally all those persons who are absent from their lands and intend within their lifetime to return to them permanently.

85. On the other hand, permanent absentees include all those who have left their lands and have no intention or means of returning. These will include persons who have gone to work and settled elsewhere, persons who have drifted in canoes and settled permanently elsewhere, and generally, all those persons who consciously or unconsciously, have neither the desire nor the capacity to return to their own community. Such persons, almost invariably, have acquired or established satisfactory interests, either primary or secondary or both, in land elsewhere. Temporary absenteeism frequently becomes permanent.

86. In the case of temporary absentees, it is usual for a man to leave his land interests to be used or "looked after" by a relative. If no one is appointed, a close relative (depending on the rules of descent) will assume the responsibility. Alternatively if no relative undertakes this, the land authority of line or land group will assume the responsibility and allocate the use of such lands. If no arrangements at all are made, the interests will be available for use by anyone in the land group. The land authority would normally be consulted before-hand.

87. In the case of permanent absentees, it is seldom that a man knows he is going to leave his lands permanently. The procedure followed is therefore much the same as in the previous paragraph. Eventually an absentee, realising he had no intention of returning, would tacitly allow the relative, land authority or anyone else to assume the interests. It would, however, be unusual for the absentee to extinguish his interests deliberately by making an outright gift of the land to the occupier. He never knows when circumstances may so change that he would wish to resume them. This applies in all tribal communities.

88. It is a characteristic of Solomon Island societies that the people left behind seldom forget absent relatives, and always hope for their return. This is particularly the case on Malaita and in some of the Polynesian islands, notably Sikaiana. Considerable efforts are made to secure the return of absent relatives either in the Protectorate or abroad in other Pacific islands. Partly this is a desire to strengthen manpower; partly it represents an insistence that the absentees should assume their traditional responsibilities in the community; and partly because of an unconscious belief that the absentee has rejected his relatives and that to secure his return would constitute a vote of self-confidence for the community.

89. In these circumstances, and because there is no general land pressure in the Protectorate, it is not surprising that absentees or their descendants can return and resume their land interests at any time. For example, on Malaita, the return of the descendants of Malaitans living in the Solomon Islands colony in Fiji would be welcomed, despite an absence of two or three generations. The following minor qualifications would apply however:-

- (a) that the line, land group and tribal community concerned does not object;
- (b) that the interests have not been extinguished already;
- (c) that pressure on the land is not extreme.

At present, it would be unusual if any of these qualifications intervened. However, as it was explained in Savo, the island is small and it would be an embarrassment if the descendants of every Savoese, who had ever left the island, were suddenly to decide to return. On the other hand, when recently it was brought to the attention of Government that a possibility existed of Savo becoming an active volcano again, the President of the Guadalcanar Council, a Tasimboko man, stated in Advisory Council that in that event he was certain he and his people would settle the Savoese. The two essential factors are that the Tasimboko people have close kinship relationships with the Savoese and they are rich in land.

90. The question naturally arises as to how many generations must elapse (if at all) before the interests of the descendants of absentees became "dead". On this there is little agreement, and in most places it is said that there is no limit. In Guadalcanar, Savo and Florida some suggested that interests lapsed after three generations - one or two said eight. Land is plentiful and cases of people returning have been few. None are known where men were rejected, though individual claims to "dead" interests made without any attempt to resume them are regarded with some suspicion. Having regard to the importance which is set on an intending absentee making arrangements for someone to "look after" his interests, it rather seems that in pre-protection times, a man's interests lapsed after a space of time if someone else did not keep them "alive". In general, it would seem that if the problem arises, the principle might be

encouraged that interests should lapse after two generations, unless they have been kept "alive" by acts of occupation, cultivation or other user.

91. There is one aspect of the absentee question which can be briefly referred to here. In the move to the coasts, many people have left their lands in the interiors and acquired interests in coastal lands which earlier coastal dwellers sometimes claim to be no more than secondary. The new coastal dwellers become permanent absentees from their bush lands. It is considered that if such interests have not been kept "alive", they simply lapse and such land becomes vacant.

Immigrants and Strangers

92. Throughout the Protectorate, and especially in the isolated Polynesian islands, there is a tradition of migrating people both as individuals and groups. They have been castaways, fugitives, conquerors, settlers looking for new lands, or simply voyagers and fishermen driven from their home waters by the winds. With the exception of conquerors, who took and kept what they could hold, and settlers who made their homes on vacant lands, immigrants and strangers have had to depend for their early existence upon the good will and forbearance of the chiefs and people who sheltered them.

93. In all this, consent and recognition of their status was an essential element of the relationship. Normally consent could not be arbitrarily withdrawn, but the continuity of the arrangement was closely related to the power of the chief. If the immigrants or strangers could offer new skills or additional labour capital, safety was usually assured. Otherwise they might be at the mercy of their potential protectors. As time went on however, they became absorbed into the group and having acquired secondary interests by consent, or by some customary mode of transfer or else by marriage within the group, succeeding generations, because of long uninterrupted occupation and a payment of pigs or primitive money came to be recognised as having acquired full primary interests.

94. The above remarks apply to persons who intend or are forced by circumstances to settle. Strangers who stayed only a short time were in a different category. Consent and the provision of skills were important elements in their remaining. But regardless of whether or not they cultivated the plots, having departed, they retained no interests in the land. In effect, they would be allowed temporary secondary interests in the land of the group which accorded them hospitality. Their interests were extinguished when they departed.

95. Today, immigrants can be divided into four main groups as follows:-

- (a) those large groups who, according to widely accepted tradition by conquest or migration, have established interests in lands on which they now live - for example, the Mono people who conquered the Shortlands and Fauro,

the Bugotu people living in Sandfly, the Ariari people established on the Marau saltwater islands, and the Lau people now living on the salt water islands of Port Adam;

- (b) those individuals and small groups who, by marriage and settlement, appear to have established primary or secondary interests in islands or districts other than their own - for example, retired Malaita labourers, scattered throughout the group, who have been accepted by a community and have no intention or desire to return to Malaita. It also includes fugitives from their own societies, castaways, etc.;
- (c) those individuals and small groups who have recently established themselves or seek to establish themselves on new lands - this would include retired civil servants and wage earners wishing to lease public land in Honiara or at district stations, and who for various reasons are so de-tribalised that they have no desire to return to their own community. It also includes Malaitamen who wish to settle on native land in the vicinity of Honiara, and those Santa Ana people who seek to settle on the mainland of San Cristobal in the vicinity of Star harbour;
- (d) those groups which have or are being settled or seek to be settled by sponsored schemes. They would include the Melanesian Mission settlement of Sikaianas at Maranatabu, Ysabel, the Government resettlement schemes of Gilbertese at Gizo, and Tikopia in the Russell islands.

96. In the first category, such groups are recognised to have been long established. While the nature and basis of their interests in new lands are generally accepted, a number of curious characteristics are observed. In the Shortlands, descendants of the former inhabitants who escaped into Bougainville still maintain land claims in the Shortlands, while others who remained and intermarried with the invaders claim interests in Bougainville, from where they originated. These have been kept "alive" by the descendants of relatives who escaped. In Sandfly, the true Florida people from time to time reject the interests of the Bugotu migrants despite court findings in favour of the Bugotu people. In Marau, the saltwater people, having successfully established their interests in the islands, are claiming, by falsification of myth and ideology, a sizeable area of the mainland from Oniseri to Kau Kau. This is strenuously denied by the Marau bush people and is likely to cause trouble. In addition, following upon the political discontents, they refused to join the Guadalcanar Council and sought to link themselves with the Malaita Council. This demand having been refused, they prefer to maintain an independent Council, and generally take their time from any disaffection in Ariari. Finally some of the saltwater people of Port Adam who settled there with the consent of the bush people, recently tried to establish an exclusive right to fish the trochus shell on the reefs. The courts found against them on the grounds

that the consent of the bush people did not extend to granting an exclusive interest over the waters. This category tries to obtain the best of both worlds.

97. The second category is usually more contented. Individuals have married and established firm ties of kinship; they adopt the customs of the people with whom they reside; and their secondary interests in the matrilineal societies in the second generation, becoming primary interests, are respected. They acquire interests by traditional means, consent of the hosts being extremely important. It can be expected, that despite growing landconsciousness a few individuals and small groups will continue to migrate and settle themselves in this way. They are useful members of the community and often introduce new skills.

98. Exceptions do occur - mainly on Malaita. There, land consciousness encourages rejection of the interests established by small groups. For example, the Agia people living in eastern Baegu'u are said to have migrated ten generations ago from the borders of Koio and Ariari in the vicinity of Olombui. Despite continuous occupation, the eastern Baegu'u people, jealous of their industry and regardless of the consent given and respect once accorded, have attempted to eject them summarily, on the grounds that they can no longer spare them the use of such lands. Other cases have also come to notice. Falsification of genealogy and custom accounts for the trouble.

99. As regards the third category, individuals can now obtain leases of public land. This does not necessarily apply to groups, except in the case of sponsored resettlement schemes. Land consciousness prevents customary settlement by groups on apparently vacant native land. This accounts for the difficulties which some of the Santa Ana people have met in their efforts to secure land in the vicinity of Star harbour. Land has been offered in Bauro, but this is some forty miles away and is therefore unattractive. Efforts have also been made by groups of Malaitans either working in Honiara or at plantations along the coast, by direct approach to Guadalcanar land authorities or squatting, to acquire primary or secondary interests in land adjacent to Honiara. Efforts have so far failed, since the Guadalcanar land authorities resist any attempts by Malaitans to acquire interests in their lands.

100. In the last category, on the one hand are the Government sponsored settlement schemes for Tikopia and Gilbertese, which are being worked out in accordance with deliberate policy, and on the other, the Sikaiana settlement on Ysabel, and Louvena's abortive Rennell settlement on Guadalcanar. The future of the former schemes will receive detailed consideration later and it is sufficient, at this stage, to say that the people are being settled on public land. The Maranatabu settlement was established by the Melanesian Mission before the war because of over-population in Sikaiana. For many years the scheme was not successful, and integration with Ysabel was nil; housing was poorly maintained, while cultivations were negli-

gible. About 20 of the original settlers have died, and many have moved to the Russell Islands and Honiara. There, they work as clerks, seamen or domestics. A few have returned to Sikaiana. Ysabel leaders complained in 1948 and asked for it to be removed. The position has improved since the Melanesian Mission which owned the land in freehold, leased the island to David Maili, a former Sikaiana policeman and a man with some trading ability. The few people living on the island now pay taxes to the Ysabel Local Council and are better regarded.

101. The Rennell scheme came to nothing. A few years ago, one Louvena, of Tasimboko, attempted to start a resettlement scheme for Rennell islanders on the lands of his group. Leaders in the area viewed the plan with some scepticism, for apart from the fact that Louvena was ill regarded, he made it known that the settlers must conform to Guadalcanar custom. Since the social structure of the Rennell people is fundamentally different, this would never have worked. These "schemes" underline the desirability of migration of re-settlement being controlled by Government, and powers are available for this purpose.

102. In general, the custom in respect of immigrants and strangers has not altered, but the attitude towards them has changed radically. Law and order and improved communications have broken down the traditional suspicion, but control by headmen has limited the number of itinerants without fixed business. Unless they intend to become permanent settlers and consent is obtained they cannot remain long. While tradition of hospitality to strangers is still strong, land authorities and people generally are suspicious of any efforts to acquire interests in land. For this reason, it can be expected that Government will have to concern itself to a greater extent in future with the land needs and interests of immigrants and strangers.

RESIDENTIAL SETTLEMENTS

Prior to British protection, the bulk of the population lived inland from the coasts in scattered hamlets of two or three houses or more, sited adjacent to cultivations. These hamlets moved frequently as land was worked out and cultivations had to shift. Movements, however, seldom extended any great distance - perhaps from one side of a valley to another, further up a river, or to a nearby hill top. Fear of enemies, powerful authorities or the needs of customary activities sometimes caused hamlets to amalgamate into villages of 20, 30 or more families - for short or intermittent periods and occasionally, permanently. Thus when Government and missions advocated the formation of large permanent villages the idea was not a new one.

2. Solomon Island settlements are normally situated with regard to water supply, availability of land for subsistence cultivation, the presence or otherwise of malarial swamp, convenience of communication, access to the sea or coasts, availability of house building materials, and land tenure interests.

3. Settlements are of varying sizes. The biggest village rarely exceeds 600 persons living in about 150 houses; a large village would be about 200 persons living in about 50 houses; an average one would consist of about 100 persons living in about 25 houses; and a small village or hamlet might be three houses with about 12 people.

Nature and Tenure of Settlements

4. Coastal and island settlements are of two main kinds - concentrated or dispersed. The former consist of houses spaced in some order a few yards apart along a sea frontage, about a square or on both sides of a sandy or grassed street or several small streets. Considerable importance is set on a sea frontage, and ribbon development is common. Such settlements are usually the result of a deliberate plan agreed upon by village elders. The dispersed type consists of a series of hamlets of two or three or more houses widely spaced, strung apart along a fronting road or track, or scattered over a wide area. Though a hamlet may conform to an arranged plan, it is unusual for the whole village to conform to one.

5. Villages are normally made up of a number of lines and land groups. In concentrated villages, one or more lines with contiguous lands "allow" their lands to be used by the village. Boundaries are recognised, but consciousness of them is not great. Frequently

village land is subject to the primary interests of one line, particularly in the case of islands which have been "discovered" and all residents who are non-members of the line are members of the one land group. On occasions, land is made available by primary interest holders who may not even reside in the village; in these circumstances, all the residents are secondary interest holders. The element of consent either tacit or specific is always present. In dispersed villages, on the other hand, hamlets usually correspond to the lands of the different lines; non-members of a line living in the hamlet make up a small land group. In such villages, consciousness of boundaries is much greater and the element of consent is more important.

6. Both in concentrated and dispersed villages, village divisions are often the result of religious sectionalism which cuts across the social organization. Primary interests are not entirely disregarded, since the leading member of the religious group is a primary interest holder in the land on which all adherents reside. It is quite usual for the few remaining pagans in a Christian village to keep to their own division. Recently at Nonosila, Malaita, the last remaining pagan removed himself from the island village and employed a man from Lau lagoon to construct an artificial island on the reef a few hundred yards from Nonosila. There he has erected his house, and, as it is said, "moved his devils".

7. Boundaries of villages are usually ill-defined; generally, however, they are represented by the point where regular clearing and weeding ends and the bush begins. In Florida, where all villages are on the coast, an unusual degree of civic consciousness pre-war, resulted in the principle being accepted that village lands between the left and right hand limits and to a depth of 25 fathoms from the sea, were to be vested in the village as a community. This will be referred to later in this chapter.

8. Man-made island settlements are usually concentrated. While such settlements might consist simply of one house and a family, they are mainly large villages with houses close packed about a small square and very narrow streets. The basic tenure system in such villages is that the public places and central house sites are vested in the descendants of the man who chose the island site and led the actual work of construction. As lines have split off from the main lineage and additions have been made to the island, each line has established primary interests to a particular part of the island. Thus at Sulufou, Lau lagoon, the direct descendants of Leo are the primary interest holders in the island even though they now constitute several different lines. Cultivations are established on the nearby coastal lands where primary interests have been acquired by inter-marriage with the bush people, or else by customary methods of transfer. The social organisation of man-made settlements is knit closer than the majority of other settlements. Religious sectionalism is rare, but where it does occur, such as in the Langa Langa lagoon, Malaita, adherents of a particular mission tend to build houses in one area.

9. Bush settlements may be both concentrated and dispersed but are mainly the latter. Because of the hilly nature of inland areas and the more primitive character of the inhabitants, they seldom conform to a well defined plan. Houses are generally scattered. The remarks made about the tenure of coastal and island settlements apply to bush settlements.

10. Settlements used for occasional activities are situated in both coastal and bush areas. They are both concentrated and dispersed, and generally follow a formal plan. They have all the obvious defects of a temporary settlement - hurriedly constructed, characterless, devoid of many economic trees and tumbled down. The best known of these are the Marching Rule "towns" of Malaita which once pulsed with activity. They now have little significance. In 1948 and 1949 they were fenced, "guarded" by tower houses and sentry boxes, and had the semblance of an American military camp. Many of them are now uninhabited, while a few have become permanent villages.

11. The impermanent nature of such settlements - the people bound by political rather than kinship ties and the population transitory - makes for land disputes. The tenure is much the same as coastal and bush settlements, but when political enthusiasms melt, the primary interest holders who have "let" the land, react against those who normally would not wish or be allowed to establish even secondary interests. On Malaita, the Marching Rule "towns" are situated on the jealously regarded coastal lands and they have been productive of many disputes. Now that the Marching Rule is discredited, those who formerly lived in the bush and came down to the coasts show reluctance to return to their bush lands.

12. On Guadalcanar, such settlements are of two kinds - the Malaita variety, with positive political significance, such as in the Marau/Haumba area, and those with negative significance. The latter include bush villages where people from nearby areas gather to meet District Officers, to receive medical attention and carry on mission activities. These do not cause disputes, since coastal lands are seldom involved. In any case, the people prefer to live in their temporary bush settlements adjacent to cultivations.

13. Temporary settlements have a markedly impermanent character. They seldom number more than one or two houses and are often roughly constructed. They are used by people who wish to spend several weeks working at their cultivations or gathering forest produce, or making copra or fishing. Permanent houses are usually far away from these activities. They are also built by true shifting cultivators - nomads like the Wainoni and Ariari bush people, who move from one cultivation to the next about once every twelve months, building new houses as they go. Such settlements are almost invariably situated on land in which the residents hold primary interests.

14. Urban settlements have grown up around the centres of Government administration. The main settlements are at Honiara, Gizo, Auki and Tulagi. The land is vested in the Crown, while

adjacent land is either native or private land. Solomon Islanders living in urban settlements are employed by Government, public corporations and boards, or else European and Chinese commercial interests holding leases of public lands.

15. Although the tenure of urban lands is outside the Commission's terms of reference, it is felt that special considerations have arisen in the last five years affecting Solomon Islanders which necessitate special attention, and these will be referred to in a later section in this chapter.

Individual Interests

16. Irrespective of whether the individual has primary or secondary interests in village land, each adult male resident has the right to an ill-defined unfenced compound on which to build his house, his kitchen, and such outbuildings as he requires, including a canoe house if there is no public one. In his compound, (and frequently in any unused space in the village) he may cultivate a few economic food trees, food crops, tobacco plants, ornamental shrubs and flowers. There he may construct artifacts, canoes or even cutter boats. He may feed a few fowls and ducks, though sometimes these have to be fenced behind the village. In the more primitive areas, where Government orders are not strictly enforced, no one would be aghast if he kept and fed small or even large pigs, and let them wander about the compound or village. He has the right to share in the resources which the village owns as a community, such as a water supply or any food trees. He has the right to enjoy the fruits of his individual labours subject to such customary requirements of reciprocity which are still observed.

17. In return, his obligations are to keep his compound clean and tidy, to dispose of refuse, to assist in keeping the public places clean on appointed days, to join in public activities such as the construction and maintenance of public buildings - churches, schools or dispensaries - and any activity which the village authority calls upon all to perform. He is expected to respect the individual interests of others and not to exploit unfairly those interests which he shares jointly with others. He is expected to avoid causing unnecessary trouble.

18. Subject to the requirements of acknowledged authority, an agreed village layout, any individual interests which he may have inherited, and of course the interests of others, a man is normally permitted to choose his compound and build his house in such style or size as his capacity and status allows. It is common for compounds to be inherited usually from the father or mother's brother, depending on the society. In the Santa Cruz group this custom is perpetuated, because until recently the dead were buried deep under the floor of the house. This has contributed to the stability of villages - at Tikopia, for example, Te Ariki Tafua stated that the centre posts of his house were at least five generations old.

Authority

19. In theory, authority in settlement lands is vested in the land authorities of the respective lines and land groups. In practice, such authority is often vested in the village headman, village chief, custom chief, or simply village "boss". Such a person may, however, be the principal land authority. Where the land authority is competent and is also the village authority, the village usually runs smoothly. Where he is incompetent, and his authority is not respected, friction is inevitable. This is especially the case when new villages are being established; many never get past the teething stage of temporary shelters.

20. The principal functions of the village authority in relation to village lands are as follows:-

- (a) organization of the preparation and acceptance of a village building plan which has regard to the best possible use of the site;
- (b) the allocation of compounds with regard to all customary considerations if conflict occurs;
- (c) the organization of house building;
- (d) the allocation of public places, and sites for public buildings, together with the organization of their construction;
- (e) the disposition of sanitary arrangements and the disposal of refuse;
- (f) the organization of water supplies;
- (g) the organization of the general maintenance of the village, and in particular the rebuilding of houses.

21. The problem of authority in village lands does not usually arise in well dispersed villages such as on Savo, in the Wana Wana and Roviana lagoons, since each hamlet is autonomous. In concentrated villages, especially those which have been long established, or have developed a marked civic consciousness, the problem is different, and is met in different ways. Two examples are given. At Kia the village lands, together with a large bush area at the back, were owned by a Posomonggo line of which Patterson Keoro was the principal land authority. These lands were given by Keoro to the people of Kia and their successors, and were vested in the Vunagi Thaba, or paramount chief, and his heirs. A man pleases himself where he builds his house, but he will have regard to the Vunagi Thaba's plans for village development and his own status in the community. Disputes are settled impartially, but perhaps a little dictatorially, by the Vunagi Thaba; however the system seems to work well. The Vunagi Thaba consults with a body of elders, who have been known to be called "nobility" in English.

22. At Hauhui, on the other hand, the land is subject to primary interests of one line. This line has agreed to the control of the village lands being vested in a committee of five "land owners" with the local Council delegate as chairman. The Committee is responsible for village layout, the houses to be rebuilt each year, how sited, what public buildings are to be erected and how and when the work is to proceed. This system works well and the village reflects the co-operation which the committee has engendered.

23. The arrangements at Kia and Hauhui work well, but are exceptional. They represent solutions that the people themselves have worked out to meet a problem which many enlightened Solomon Islanders are becoming concerned about. What is the most effective form of authority to control village affairs and land? On the one hand, there is distrust of the old system of Government appointed village headmen - on the other, suspicion of incompetent traditional chiefly authorities. Land authorities are also distrusted because they have shown themselves arbitrary and quixotic, and this question will be dealt with in the next section. Most villages, especially the dispersed type, reflect the individualism of the inhabitants, but a large proportion lack character and any incentive to community improvement. This is in some measure due to lack of leadership, not only in the use of village lands but in development generally.

24. With increasing attention being given to Local Government, there is a tendency to neglect affairs at the village level. Clearly it is desirable policy to encourage the formation of larger village units - since these can then obtain better services and facilities - but having achieved that, closer attention must be paid to internal organization. It should not be left to "custom", to the most vociferous land authority, or to the despised village headman. It is recommended that the whole question of administration at village level should be reviewed, and the possibility of an extension of the Hauhui principle examined. Initially, such consideration should be confined to villages of average size and above - i.e. with populations of over 100.

25. The proposals made in the next section are designed to meet the difficulties of titleless village lands.

Stability

26. With one or two exceptions, notably the few remaining true shifting cultivators, Solomon Island settlements are relatively stable. The people are not nomads in the sense that whole families are found moving constantly from place to place. Limitations of geography, difficulties of transport, traditional fears, the fact that in former times a man built his house in the compound or even on the site of that of his father or mother's brother, together with, more recently, administrative control on movement, all combine to make for stability. On the other hand, the kinship affiliations and the desire to "walk about" cause some families and individuals, especially youths, to settle for a time in one village, and then go on to the next. Event-

ually, however, they return to their own villages. Individuals seek work in other islands or serve as seamen. They return to their villages after a year, two years or even more. A limited number take their families with them.

27. Three factors, however, account for instability in Solomon Island villages. In the first place, the materials and method of construction are generally impermanent. The life of an average house would not exceed five to seven years; a well constructed one might last only 12 years. When houses become dilapidated, the householder wonders about shifting to another compound or another village. Although Solomon Islanders still co-operate to construct houses, the growth of individualism is jeopardising the principle in certain areas, notably the Western Solomons. Leadership in such activities is diminishing, while feasts for the workers are not now meticulously provided. This sets up the vicious circle of diminishing reciprocity. Furthermore, other interests such as copra making, store keeping, operating powered launches, etc., together with a growing scepticism of traditional leaf houses, combined with a desire for houses of permanent materials, all militate against stability. The results are obvious especially in places such as the Russell islands. It seems desirable that the whole problem of house building should be examined with a view to evolving a policy which helps to cure instability, meets the breakdown in reciprocity, satisfies the demand for the use of more permanent materials and allows more time to be devoted to productive activities.

28. Secondly, factors of geography often make for instability. Rivers change courses; earthquakes cause landslides; waters become the haunt of sharks and crocodiles; swamps develop or become unmanageable and mosquitoes follow; recently it has been suggested that Savo island might some day erupt. When factors of geography make a change of site inevitable, little can be done to prevent it. What can and might be done, however, is to try to avoid previous mistakes. Pre-war, administrative policy required that a new village site should be vetted by the District Officer. Since the war, this principle tends to be forgotten. It would seem desirable that councils should be encouraged to take more interest in the question; they should be invited to assume responsibility for approving new sites generally. A resolution that all changes of site should require approval by the local council would meet the situation. No approval would be given until two council delegates (preferably from the area concerned) had examined the alternatives and were satisfied as to which was the most suitable. District Administration staff could assist by inspecting sites with the delegates concerned, and pointing out the less apparent advantages and disadvantages of the alternatives.

29. Finally there is the human factor, and almost invariably this is bound up with land tenure. In parts of Malaita and Guadalcanar (both coastal and bush areas) the explanation advanced as to why the people did not form large concentrated villages, was that they would be at the mercy of the land authorities who "allowed" the village

to be established on "their" land. The services which a large village can command are acknowledged but there is the disadvantage of insecurity. It is said that all goes well for a time, then some difficulty arises; usually it is over the erection of a store, church, dispensary, school or some other public facility; the land authority gives his views - probably against the project; perhaps he is not well regarded in any case but considers his advice should prevail since he has "allowed" the land; the elders do not accept the advice; and so the land authority orders those who are not of his thinking to get off his land. The people are reluctant to move; a compromise is reached; the atmosphere becomes strained; shortly, another difficulty arises; trouble breaks out again; eventually an open breach occurs and half the people move out of the village. This is a little more than implied eviction. All the work of clearing, constructing and planting has to be started all over again. Months of effort have been wasted.

30. Such breaches are not widespread, but are common enough for the problem to be appreciated and to be the cause of some concern. In particular it is a deterrent to the formation of large or concentrated villages. Feeling exists, especially among more enlightened Solomon Islanders, that control should be effected in settlement lands. This is not easy, and legal difficulties will be found. The law, however, has tended increasingly to regard all villages as public places. It is obvious, too, that in almost all villages land owners have already given their consent, perhaps far back in the past, and this cannot be withdrawn lightly or arbitrarily. Councils are empowered to resolve on the regulation of the occupation of land by natives, which in itself limits the interests of village land owners. It would seem therefore that legislation is necessary to categorise and define "village land". This should provide that lands on which villages are at present established may be proclaimed village lands by resolution of the local council, and that lands so proclaimed are vested permanently in the present inhabitants, their heirs and successors. Such inhabitants could not be disturbed in their possession, nor could the land be alienated to non-natives. Individual interests would be left undisturbed - only the right to evict would be limited. Provision would of course be necessary, to ensure that inheritance is controlled and that no person could acquire interests in the lands of more than one village. It would also be necessary to provide that villages can be amalgamated or moved for geographical reasons.

31. A simpler alternative, attractive but rather arbitrary, would be to enact legislation which accepts the fact that consent and agreement have anteceded the establishment of all villages; that after the lapse of a generation such consent and agreement are irredeemable; that the alleged owners, by the act of consent, have extinguished all their interests except those which they hold as residents of the villages; and that such land is land vested in each village community. Provision for the appointment of trustees would be helpful in the future. The land of all villages established after the legislation comes into effect, automatically becomes village

land. The Commission generally favours this approach.

32. It is fully appreciated that the fallacy of these proposals is that both are opposed to the individual land owner's interest and to the general line taken in other recommendations; unfortunately no alternative arrangement can be found to fit the peculiarity of present circumstances.

Settlement Land for Public Facilities

33. Land is allocated or used in villages for the following purposes of a public or semi-public nature:-

- (a) For construction of buildings for customary use by specific groups, e.g. single men's quarters (found mainly in the Central Solomons and Malaita), houses for menstruating women and childbirth (mainly Malaita and parts of Guadalcanar), visitors' houses (everywhere), meeting houses (combined often with visitors houses), houses of pagan ritual (such as the skull houses on Santa Ana and Malaita), This group would also include latrines built over the sea, or areas specifically allocated for defecation. All such buildings have precise ritual significance, are sometimes forbidden to certain classes of persons and normally only limited groups of people assist in their construction. The land authority seldom raises any objection to the allocation of the land, unless he is a strong Christian and is reluctant to see pagan principles applied in his line's land.
- (b) For construction of buildings used by the whole or part of the community and generally sponsored by a mission, e.g. a Church, school house or dispensary. Before the land is used the land authority is consulted and generally no objection is raised. Difficulties arise when a second mission group wishes to establish itself in the village. Normally, mission bodies are reluctant to do so unless their converts are able to provide the necessary land. Frequently, however, the converts claim to have primary interests in the land, but their kin, belonging to the earlier established mission, refuses to permit the land to be used. These circumstances almost split the village on Santa Catalina some years ago. Signs exist on Malaita in "one mission" localities (the Melanesian Mission school at Kwarade is a case) that boarding schools are distrusted, since boys from distant places "eat the fruit out of the land" and pay nothing for it.
- (c) For construction of buildings used generally by the whole village and nearby communities, and sponsored by Central Government agencies, e.g. dispensaries, schools, rest houses, and, before the war, tax houses on Malaita. There is usually some difficulty in getting land authorities to

agree to the erection of such buildings. The problem is often avoided, by the dresser, teacher or headman making his own line's land available. The greater proportion of the work of construction, supply of materials, etc. frequently falls on such persons. On Malaita, feeling against such public buildings is often very strong. It is particularly symbolised by the hatred with which pre-war tax houses (not now maintained) were regarded by the Marching Rule movement. They were perhaps, unfortunately named, since their principal uses were as a court house, rest house, and meeting place and not merely for the payment of the annual poll tax. Exceptions to this attitude do occur even on Malaita; recently in the Western Solomons very creditable rest houses have been constructed at council headquarters.

- (d) For construction of buildings used by the whole village and nearby communities, and sponsored by Local Government agencies, e.g. dispensaries, maternity centres and schools, etc. The remarks made in respect of the previous category, apply to this, with the reservation that antipathy is not so great. On Malaita, however, it is becoming the practice for the council to pay for the construction of such buildings; in consequence demands are being made that the council should either purchase or rent the land.
- (e) For the construction of buildings at Local Government headquarters used principally by council staff for the administration of council affairs generally. Such land is not usually inside a village, but is in the centre of well-populated areas, and construction is generally paid for by the councils. There is some unanimity among land authorities in different parts of the Protectorate, that such land should be leased or purchased by Councils. This view is not general, but there is increasing awareness of it.

34. No action is required in respect of category (a) and little can be done in respect of (b) at present, except to give moral and administrative support to the mission societies without favour to one or the other.

35. Assuming that no non-native is going to reside permanently on the land in question, attempts to establish the principle of payment for land required in respect of categories (c) and (d) should at present be resisted on the grounds that it is wrong in principle; that neither in ancient nor modern custom can such claims be substantiated; that useful public services are provided for villages which gain considerable benefit and prestige from them; and finally, that payment is beyond the financial capacity of both Central Government and local Government. Effect should be given to this by legislation along the lines of section 30 of Cap 49. This can be done by the provision of powers in the Native Administration

Regulation, for both Central and Local Government to set aside land in a village, without compensation; for public facilities such as schools, dispensaries, rest houses, maternity centres etc. The essential element of the amendment should be that such land will be set aside for public facilities only with direct local significance. Since the amendment will be no more than permissive, the process should be sparingly used. On no account should it obviate the need for attempting to secure the consent and agreement of land authorities and their lines by courteous negotiation. The problem will of course be partially met by acceptance of the recommendation to categorize and define village land.

36. As regards category (d), it is thought that since Councils are now incorporated by law and have power to hold land (Section 13 of the Native Administration Regulation No. 10 of 1953), there can be no objection to them acquiring native land for headquarters. It is recommended that this policy should be actively pursued. Not only would this answer general criticism, but since council headquarters administer wide areas, and are becoming settlements in themselves, the same as Government stations, the correct principle to apply is the proper acquisition and payment for such land. No doubt, in due course councils will have to be provided with compulsory powers of acquisition. These will not, however, be required for some time. It is recommended that wherever possible native land should be bought and not leased. Any legal objections to this should be removed by legislation.

The Problem of Storekeeping

37. The establishment and siting of stores, bakeries and tailoring businesses are often the cause of considerable feeling in villages. This frequently results in serious land disputes which may even disrupt a whole community. The problem is virulent on Malaita, and the following account is based largely on the position in that island. Similar issues occur elsewhere, but are not so acute. It is bound up generally with the competition for coastal lands.

38. Solomon Island "businesses", as they are called, are not co-operatives. They are run by an admixture of primitive understanding of European principles of profit sharing based on capital subscribed, and primitive economics. Accounting is sketchy. Little is known about their organization. Analysis of their operations proves complex.

39. Broadly, the present position is as follows: administrative policy requires that an applicant for a store licence should "own" the land on which the store is to be sited. Enquiry is limited, and confusion arises over the word "owns". Although an applicant is a permanent resident of the village, his interests may be no more than secondary. Consent of the primary interest holders is therefore necessary. Conversely, though he may be a primary interest holder, his co-holders may not have been consulted. In both cases

the licence may be granted without these requirements being met. Similarly it may be refused on grounds which closer enquiry would show to be lacking in substance. Normally secondary interest holders do not apply for store licences, while primary interest holders are usually careful to ensure that co-holders are "shareholders" in the business.

40. The customary principle behind such difficulties is this: today, no man who has not got primary interests in the land on which the store is to be operated can carry on any economic enterprise from which he will derive a cash profit. Conversely, no man who has got primary interests in the land can carry on any economic enterprise unless the co-primary interest holders share in the enterprise, by subscribing token capital or are simply paid a large share of the profits called "interest land". Thus the problem is twofold:-

- (a) can a resident of a village, holding secondary but not primary interests in the village land, carry on a profit making enterprise in his own compound in the village?
- (b) can a resident of the village holding primary interests in the village land, carry on such enterprise in his own compound without the consent of his co-primary interest holders and without paying them "interest land"?

The problem applies to the planting of cash crops as well, and that aspect will be dealt with in the appropriate context.

41. The whole question has been brought into existence by the breakdown towards individual enterprise, and in particular by an exaggerated sense of the value of land resources under the influence of European tenure principles. According to the strict application of customary principles, unless the secondary interest holder, when he or his ancestor originally was permitted to settle in the village and reside on his compound, was specifically subjected, at that time, to certain limitations of residence and user; or unless it had become generally understood and recognised, at the time of taking up such residence, that as a result of administrative policy in the sub-district or tribal community, secondary interest holders in the land were debarred from carrying on businesses, there would appear to be no reason, from the point of view of land tenure, why a secondary interest holder should be debarred from a licence.

42. Again as regards the primary interest holder, since custom generally accords to such persons the right to use the land over which he has established a primary interest by occupation and residence without let or hindrance - providing he does not interfere with similar interests of his co-holders - and to enjoy in full the fruits of his labour; and since there is no strict requirement of custom that necessitates his sharing the fruits of his labour, other than in accordance with principles of reciprocity, which in any case are steadily breaking down, there again appears to be no reason why he should be debarred from a business licence. If he wishes to consult

his co-holders, or if he wishes to give them a share in the business, there is of course no objection; but it cannot be substantiated that they have an immemorial right to be consulted or given a share of profits.

43. Coming now to the practical application of these principles, the Commission is of the opinion that in the majority of cases, both past and present, widely known administrative policy will debar the majority of secondary interest holders from acquiring business licences at present. However, in the event of the recommendation being accepted regarding the definition of village land, and some progress is made with its application, it is considered that administrative policy should be changed and that where the land of a village has been proclaimed village land and is thus vested in the permanent residents of the village, their heirs and successors, the only factor relating to land tenure which should debar a man from obtaining a business licence is that he is not a permanent resident of the village. Other considerations will then determine whether or not the licence should be granted to him.

44. There appears to be no practical objection to the second principle being applied forthwith; the only requirement is that the applicant should be a permanent resident of the village in which the store is to be sited. It is necessary, however, that the application of such principles should be carefully propagated and be made widely known among the people through the Local Government, headmen and persons of responsibility.

45. In conclusion, a case is cited to illustrate the practical significance of this problem. The new village of Malo'u, Sinerago, has been constructed on very poor, swampy land. Few of the residents have primary interests in the land, but primary interest holders gave the necessary consent to establish the village. One of these subsequently attempted to prevent the people from keeping pigs, fowls, or growing betel nut palms or coconuts in their compounds. His grounds were that such acts represented "stealing of money" from "his" land. He complained that the storekeeper (primary interest holder) local native court president, council school teacher, messenger and dresser were "sitting down on the land and winning money". Needless to say, the complainant is an inactive member of the village. This is typical of the problem which is being met on Malaita, and in parts of Guadalcanar, Florida and the Western Solomons. Sympathising with or supporting such attitudes or even tacitly accepting them means jeopardising the basis of village life in the Protectorate. They must be actively discouraged.

The Problem of Urbanization

46. Before the war, urbanization was confined to Tulagi and Gizo. The old capital was destroyed by the war. Because Tulagi island was too small for the post war services envisaged, the new capital was built at Honiara on Guadalcanar. Gizo was also destroyed during the war, but the post war headquarters has been built on the same

site. In ten years, Honiara, with an infinitely greater number of services, has grown to four times the size of Tulagi. Gizo is bigger than it was pre-war. Tulagi has shrunk to the size of a small Government station. Auki, the Malaita district station, is three times the pre-war size. Most of the remarks in this section are related to Honiara, but they have a bearing on the future of other towns, especially Gizo and Auki.

47. The towns have grown up around centres of Government administration and European and Chinese commerce. Therefore, their traditions are associated with non-native interests which have been given paramount regard. Solomon Islanders have been looked upon by Europeans as non-permanent residents, who sooner or later will return to their homes and villages. A consistent shortage of housing and the high cost of living have discouraged Solomon Islanders from thinking of themselves as permanent residents.

48. Today, the most permanent residents of Honiara are the Chinese. The most impermanent are the Europeans of whom less than 15 per cent resided in Honiara five years ago. About one thousand Solomon Islanders, or just under one per cent, live in Honiara. Probably a further one per cent are to be found in other towns, stations and commercial centres. Many have shown signs of wanting to become permanent residents, and the demand will certainly increase.

49. Housing for Solomon Islanders in the towns is the liability of the employer and must conform to certain standards. Government and the different public corporations have set aside specific areas as housing estates. The arrangements made by other employers are less obvious or uniform. Housing is consistently short; overcrowding is widespread; services are limited; furnishing is negligible; a few shanties are to be found even in the short space of 12 years. Solomon Islanders contribute in some measure to the situation by accommodating relatives who seek work, or who come to the town to enjoy medical, educational and other facilities, or who simply like an urban life. Vagrancy is alleged to be a constant problem. But practically no accommodation facilities exist for Solomon Islanders who in the course of their legitimate affairs have to visit the towns.

50. Housing standards in Honiara normally require the use of permanent materials, although it cannot be said that the results are entirely satisfactory or that the standards are uniformly applied. Recently Central Government has built a number of houses of local non-permanent materials for married Fijians. Several European Government quarters have been roofed in local materials. But Solomon Islanders have received no positive encouragement to erect their own houses. Those who have shown interest have been discouraged by the "permanent materials" rule, the application of which, to them, appears discriminatory.

51. Solomon Islanders supplement their incomes by cultivating food crops on any vacant public land which is available on the out-

skirts of the town. They are little more than squatters. Because this has led to a problem of prescriptive interests, the use of public land for such purposes is now controlled by short term permits for one to three years. It can be expected that when all suitable readily available garden land has been utilised, squatting practices will extend into native or private land and that disputes will result. Other measures are also taken to supplement the income. Overtime is worked in the late afternoon and evenings; wives and older children are being increasingly employed as domestics; week-ends are spent in catching fish or collecting scrap metal for sale.

52. In recent years, a demand has developed among Government employees and others to acquire leases of public land on which to settle after retirement rather than return to their village. The reason for this is a combination of dissatisfaction with village life after long absence, and a reluctance to give up the amenities of the town, to which they have become accustomed. Only recently has legislation been amended to permit Solomon Islanders to acquire public leases, but only two have yet been issued.

53. Despite the present large local population in Honiara and Gizo, neither town possesses any effective suburban population. This is partly traditional, in that in former times population was sparse, and partly because most of the nearby coastal lands have been alienated. The result is that labour has to be brought to the industry at considerable cost in public services. The position at Gizo has recently been improved by the establishment of a Gilbertese settlement, which no doubt will grow in time. But the problem of Honiara has still to be tackled. The few Guadalcanar people who once resided on the Honiara land live on the periphery where they hold fast to the little land they have left, and resist the attempts of Malaitamen who would like to acquire customary land interests close to Honiara.

54. The position at Auki is quite different. The population is relatively dense and services are therefore cheap. Since the council headquarters have been established at Aimela beyond the King George VI School, many people have started to develop land on the road north from Auki. Every sign exists that urbanization will grow and that land development along this road will be extensive during the next ten years. It would not be surprising if transactions in native land became common, and if the prices paid reached a high level.

55. With the exception of isolated cases at Auki and Gizo, the commercial life of the towns is almost wholly vested in the Europeans and Chinese. Two or three villages beyond Honiara provide vegetables for sale in the bi-weekly markets, but that is all. Solomon Islanders confine their commercial enterprise to the outer districts and villages. One of the reasons for this is that the building standards are too high, while the administrative difficulties involved in securing a licence in the town discourage even the most ambitious. Little positive attempt has been made to assist Solomon

Islanders to enter commercial life except as employees.

56. It is generally believed by many Europeans that town life has a bad effect upon Solomon Islanders, and that only unfortunate necessity suffers their presence in Honiara at all. They point to the ill effects of the cinema, drinking, prostitution, bad health and vagrancy. Crime is alleged to flourish, while noisy gaiety is regarded with cold suspicion. But these are surely the effects of the policy which regards the towns as primarily for Europeans. They result from insufficient houses and accommodation, an absence of families, lack of services, limited recreation facilities, poor sanitary arrangements, and a tendency to regard Solomon Islanders as temporary residents.

57. The towns are here to stay. A great many Solomon Islanders like living in them, and show an increasing desire to settle permanently. Many more will want to follow. They are disillusioned with the dullness of village life, and who could not forgive them. These people must be encouraged to settle permanently, for their services are indispensable. Apart from this, the towns can be a forceful civilising influence. By introducing the people to European ideas and techniques, and by bringing together in one place Solomon Islanders from different islands, they serve to break down that parochialism and suspicion to which encircling seas and the dead hand of tradition cause the people to cling.

58. A fresh approach to urbanization is necessary which should seek to integrate Solomon Islanders more closely and permanently into town life. From the point of view of land tenure, the following recommendations are made:-

- (a) That permanent settlement should be encouraged by assisting Solomon Islanders positively to acquire leases and to build and own their own houses. To this end, building standards and zoning arrangements should be made less restrictive.
- (b) That when and at such time native land on the town boundaries starts to assume a premium value, titles should be adjudicated and registered.
- (c) That the possibility of setting aside a suitable cultivation area for sub-division into plots to be allocated on long term permits to urban dwellers should be examined.
- (d) That the need for a local suburban population should be treated as a resettlement problem in which the principles outlined in the relevant section in Chapter XII should be applied.
- (e) That positive and effective encouragement should be given to the entry of Solomon Islanders into the commercial life of the towns and, with this object in view, administrative conditions should be relaxed.

- (f) That wherever possible Solomon Islanders, particularly leaseholders, should be encouraged to assume more administrative responsibilities in the organization and management of township affairs, public bodies and institutions.

CHAPTER VIII

INTERESTS IN RESOURCES

INCLUDING LIVESTOCK

Virgin Forest

Solomon Islanders have clearly defined attitudes towards primary or virgin forest: these, however, may vary from place to place and differ somewhat from those of Europeans. While to the latter, forest is only truly virgin if it has remained undisturbed by man or other "abnormal" phenomena for many centuries, to Solomon Islanders it includes all such forest, together with secondary forest that is in transition to virgin forest, which was perhaps once cultivated but is not going to be cultivated in the foreseeable future, and concerning which there is now no recognised tradition of cultivation. In these circumstances such transitional forest may be regarded as virgin forest any time after two generations; attitudes are indirectly related to the degree of past and present pressures of population.

2. In the second place, the greater proportion of Solomon Islands societies have a specific word for virgin forest. This is variously translated - as often as not by the phrase "forest that no man has been known to clear"; it is recognised in different ways, for example, the size of the trees, their density, the amount of labour, which would be involved in felling, the names of the trees and the use to which they are put - if any. In most localities the species of trees found in virgin forest are generally widely known.

3. Finally, in places where virgin forest still stands it is inconceivable to the people that the greater proportion of it won't continue to stand (New Georgia and Ariari); in places where it has been "cut out" it is equally inconceivable that it will ever grow again (To'obaita); and in a few places where in the memory of tradition it has never stood (such as the Reef islands) a concept of virgin forest scarcely exists at all.

4. The custom in respect of land under virgin forest was probably one of the first principles of the primitive tenure system to evolve. Early records and the statements of elderly Solomon Islanders all agree that the custom was this: the individual or the group that first cleared the virgin forest established a hereditary right of usage in the land in return for the labour expended. Irrespective of changes which have occurred and are still going on this was fundamental in the customary tenure system. From this has evolved all other principles of tenure up to the present day concepts of ownership.

5. It is now proposed to examine the nature of present day interests in virgin forest.

6. Each member of a line which has virgin forest in its boundaries normally has a right to fell and clear virgin forest for the purpose of planting subsistence crops without seeking permission from the land authority. At Kia, however, he is required to consult the land authority first. It would be unusual for permission to be refused. Having cleared the virgin forest and planted crops, the individual has acquired a hereditary primary interest in the plot. If however, the individual wishes to clear virgin forest to plant economic trees such as coconuts or cocoa, the principle is becoming widely accepted that he must seek the concurrence of other line members through the land authority. If a non-member of the line wishes to clear virgin forest for subsistence crops, he must secure permission from the head of the line. If his relations with the line are good or he is on terms of reciprocity, it would be unusual for the non-member to be refused. Permission might be qualified by limitation to a life interest, but this would be exceptional for such an interest normally is hereditary. Having cleared and planted, the non-member thereby establishes a secondary interest in the land. If however, he wanted to clear virgin forest to plant economic trees, permission would probably be refused today, even though he is on terms of reciprocity with the line.

7. Primary interest holders are free to hunt in the virgin forest, to gather firewood and wild foods, to claim ownership by marking any unclaimed tree, and to discover and nurture (by clearing the undergrowth) any self sown seedling. Those claimed or discovered are usually food trees, or trees used for canoe making, artifacts and occasionally house building. Non-holders of primary interests wishing to hunt, gather or discover in the virgin forest belonging to a particular line are normally expected to seek permission; this is seldom refused, especially if a reciprocal relationship exists. If permission is not sought no great feeling would be aroused in respect of isolated cases, but habitual exercise of discovery without permission might cause resentment.

8. The economic significance of virgin forest is a recent development. Sawmills operated by Europeans are now established at Buma (Malaita) and Batuna (Marovo) mission stations, at Lingatu in the Russells (Levers) and Tenaru on Guadalcanar (Tenaru Timbers Ltd.) On Malaita, a few villages have established pit saws; in west Kwara'ae a local company has recently started operations. There is a growing demand among the people for sawn timber for use in cutter boats and house building. Logs are cut, manhandled to the coasts and towed to the sawmills. The sawn timber is shared between the mill and the log owners on either a 50:50 or 2/3rd:1/3rd basis. Primary interest holders mainly supply the logs, but permission to fell is granted to others, sometimes on the basis of a share of the feller's portion of the sawn timber.

9. Before going on to consider the question of reservation

and development of forest areas, it is first necessary to emphasise that in many cases where Solomon Islanders today are steadily clearing "virgin" forest, it is more than likely that close examination will reveal that it is not strictly virgin but secondary forest in transition. In the second place this Commission has found that in To'obaita, Malaita, and the coastal areas of the Lau lagoon, a consciousness exists among responsible members of the community, that virgin forest has recently been "cut out" to make way for subsistence cultivation, that in some cases, little or none remains, and that this is related to the observable fact that much of the soil is now being lost. Informants put the matter this way: "before", there was plenty of forest and people made only small gardens; not everyone kept pigs, but they roamed freely; then the whiteman came and the people obtained axes and knives; the work of felling was easier and people started making large gardens; eventually all the virgin forest was cleared; everyone kept pigs which the Government ordered should be confined in fences. Today, there is pressure on the land; crops do not grow so well as before because the land hasn't time to "sleep" (i.e. lie fallow); because no big trees are left to spread the heavy rains evenly, the soil is being washed into the rivers and out to sea; this is particularly so where many pigs are fenced, for they quickly "spoil" the land and the rains wash the soil away. While this diagnosis is probably an over-simplification of what may not yet constitute a problem, the Commission has certainly observed that destruction of virgin forest has been extensive in the area, and that much soil finds its way to the sea. What was impressive about these conversations was an appreciation of the relationship between deforestation and erosion and a desire to know what could be done about it. Mr. F.S. Walker has said that evidence points to mankind being responsible for at least the perpetuation of grasslands and it may well be, as population increases, that the preservation of the forests will become a serious problem. Indeed, modern Governments generally recognise that they have a moral duty to preserve such forest as will be needed by posterity, to protect soil and water supplies, and to provide for increasing timber requirements. It is not often that even a few people in underdeveloped territories appreciate this need.

10. The Protectorate has no forestry legislation. The Timber Regulation (Cap 58) governs the acquisition and grant of timber rights in any land but does not provide for reservation. The National Parks Regulation (Queen's Regulation No. 5 of 1954) however, provides for the proclamation of areas as National Parks in which certain acts such as residence without a permit, hunting, lighting of fires, are prohibited. A National Park has been declared over an area of native land behind Honiara. It is considered that the passage of this legislation and the issue of the subsequent proclamation, has established the important principle that the Crown has in fact a right in this Protectorate to control land and natural resources for the common good.

11. Only one agreement is current between the Protectorate Government and native interest holders under Cap 58. This is in

respect of the right to cut, fell and remove timber growing on Vanikoro island. Kauri and other forests grow in certain parts of this island. In 1884 and 1887 certain Europeans were alleged to have acquired by purchase two large tracts of land in which kauri forests were situated. The alleged rights were eventually transferred to a European company. In 1926 the people of Vanikoro, through their representatives, sought a declaration of title against this company in the High Commissioner's Court, the claim being based on the ground that no sales had ever in fact taken place. The court found for the people of Vanikoro, and granted title to them. The Government of the day negotiated the acquisition of timber rights with three representatives of the Vanikoro people. The question of whether or not the Vanikoro people exercised or had ever exercised or possessed any interest in the kauri forests, which are situated inland on high ridges, was never considered. The Government pays an annual sum to the three representatives who divide it among every man, woman and child of Vanikoro (population 105). The sum paid, however, represents but a fraction of the revenue collected, and this can be taken to imply that Government has never recognised that the people of Vanikoro have anything more than a limited interest in the timber. The agreement with the Government terminates in 1958 and a new one is to be negotiated. The people of Vanikoro have recently agreed that any new agreement should provide for an annual payment to be made directly into the revenues of the Vanikoro Island Council. An important principle has therefore been established.

12. The Vanikoro kauri forests have been exploited for over thirty years. More than 30 million super feet of timber has been removed. Only in the last year or so has it been possible for Government to station a forestry officer at Vanikoro and to undertake a scheme of regeneration.

13. Having considered the Vanikoro forests which are already being exploited, it is necessary to refer to the forests of Ndeni (population 2002), a nearby island where forestry development is a possibility. This is a much larger island than Vanikoro, but the density of population is only about ten to the square mile. All villages are on the coasts. The kauri forests are well inland on high ridges. Immediately behind the villages are lands which are used for cultivations. Much of it is secondary forest. Further back on the lower slopes of the ridges is virgin forest, some of which is secondary. This area is valued principally for hunting the red cockatoo (mangoa) whose red feathers are used in manufacturing the coils of primitive money used as a means of exchange throughout most islands in the Santa Cruz group. Hunting and gathering in this area is regular and continuous. Finally, in the heart of the island on the high ridges are the kauri forests - in former times never inhabited and practically never visited, and now only very occasionally visited to collect kauri gum for sale at Vanikoro. The kauri tree itself is not used in the material culture of the Ndeni people. That individuals may claim to "own" the kauri forests, especially if Government pursues its interest in their development, is very likely. That such claims could not be sub-

stantiated is certain. Indeed land consciousness, which at Ndeni is less rigid than elsewhere, does not go further than a vague belief that different groups of villages have different "spheres of influence" in such forests. Without prejudice to any adjudication of interests, which might later be made, it is the opinion of this Commission that in terms of the principles which it feels should govern the question of customary ownership in land (see Chapter XIII), the people of Ndeni could not properly establish a claim amounting to full ownership rights in the kauri forests. It seems to the Commission that providing development of the forests proceeded in accordance with good forestry principles, the only interest which reservations would extinguish would be the right to cut down the forest, at some indeterminable time in the future; it would seem reasonable that in compensation for extinction of this interest, it would be appropriate for Government to pay to the Ndeni Council, a proportion of any royalties derived from the development of the forests. By patient and careful explanation of the principles no reason is seen why such a policy of reservation should not be acceptable to the Ndeni Council and its people.

14. It is believed that such a policy should be made the basis of forestry reservation policy throughout the Protectorate and given effect in legislation. Not every island, however, is the same as Ndeni, and it will be necessary to give consideration to a wide variety of factors including the nature of land consciousness in the particular area: but Solomon Islanders are already showing an interest in the preservation and development of forests, and are anxious for technical assistance. Great care, tact and patience will, however, be required to implement a reservation policy, and forestry officers will have to operate in the closest possible accord with the administration. It is not the purpose of this report to suggest the precise nature of forestry legislation, but the following seem to be the principles which should govern legislation relating to reserves on land which is not private and not public land:-

- (a) that there should be a formal and deliberate enquiry to ascertain the nature of interests (if any) which are held in respect of the forest to be reserved;
- (b) that in the event of the forest not being found to be subject to any interests amounting to full ownership, that it be proclaimed simply as a "forest reserve";
- (c) that pending the enquiry, notice to reserve shall have all the effects of reservation;
- (d) that such forest reserves should be vested in the trust of the High Commissioner in perpetuity;
- (e) that such sporadic rights of hunting or gathering not deemed to be full ownership rights which the adjudication enquiry shows to be exercised by any Solomon Islanders, shall continue to be exercised by them, but that they will be regarded as petrified;

- (f) that any right which might exist to fell or clear the forest for cultivation, settlement or any other purpose at any indeterminate date in the future is extinguished by the act of reservation;
- (g) that the forests may be developed in such manner as the High Commissioner thinks fit;
- (h) that a proportion of any profits derived from the development of the forest will be paid to the Local Government.
- (i) that in the event of it being found desirable to declare a reserve over forests which the enquiry reveals to be subject to interests amounting to full ownership, all interests including interests in both land and forest should be expropriated by payment of compensation. It is considered that where Solomon Islanders are felling trees for milling, this would constitute strong prima facie evidence of ownership;
- (j) that Solomon Islanders should be given an opportunity to invest capital in forestry development.

15. In some territories it has been the practice to vest forest reserves in local councils. Not only is it most unlikely that Protectorate authorities will be capable of assuming such responsibilities for a great many years, but it seems wrong in principle that such bodies, whose proper concern is the provision of public services and facilities, should be allowed in the foreseeable future to become involved in the management of forest reserves. It is recommended that any proposals made by the Local Government along these lines should be resisted and that the management and development of forest reserves should be kept in the hands of Central Government. It is further considered that in no circumstances should the principle be accepted that "owners" should be paid a regular proportion of any royalties or profits derived from development of forests.

16. In concluding this section it is desirable to quote a short passage from Mr. W.A. Gordon's¹ recently published book. He states "Forest reservation may be regarded to some extent as a race to reserve an adequate forest estate:

- (a) before the theory of State ownership of vacant land ceases to be a reality, as appears to be happening, for instance in Northern Rhodesia;
- (b) before the value of the forest estate is reduced by wasteful practices such as shifting cultivation;

1. W.A. Gordon, "The Law of Forestry", Her Majesty's Stationery Office, 1955. p.303.

- (c) before the forest estate becomes burdened with rights of use and in particular before the development of conceptions of individual freehold ownership prevents its acquisition by means other than purchase or full consideration.

17. Speed is essential today, if adequate forest estate is to be reserved. Perfect legislation takes time, and may not be achieved easily in the Solomons, where land legislation and administration is so backward. Some control is better than no control. It is recommended therefore, that the enactment of forestry legislation should be given priority over any other legislation contemplated in consequence of this report.

Secondary Forest

18. Attitudes towards secondary forest, or secondary growth generally, are usually as clearly defined as those towards virgin forest. While Europeans regard secondary forest as forest which has grown once the primary forest has been disturbed either by man or some abnormal phenomena, irrespective of how long ago, Solomon Islanders think of it as forest which has grown up on old cultivations and village sites, and in this, tradition plays an important part. In most societies, such land and the forest on it, is described by a single dialect word broadly translated as "land which has been cleared by man". At Utupua, for example, where all the virgin forest was laid flat by hurricanes in the 'thirties and only secondary forest now exists, such forest is still regarded as virgin, even though the tradition of the people is that many generations ago Utupua supported a much larger population. Such vacant land is regarded as "belonging to the dead", or "belonging to no man". Anyone can establish interests by clearing it.

19. Primary or secondary interests in secondary forest are held by individuals. The nature of the interests is dependent upon whether or not the individual is a member of the line or merely a member of the land group. Normally, such land is in state of fallow, and interests are maintained in order that the holder can clear the forest and resume cultivation at any time when his current cultivations become exhausted. From secondary forest is obtained firewood (usually easily split trees which have been felled in the course of clearing), materials for house and canoe building, the materials for certain types of rope used for lashing or fish nets and lines, some medicines, fish poisons and dyes, together with certain wild foods. Individual interests in secondary forest are respected, and permission is usually sought before any forest produce is gathered. Although firewood is often collected freely in the immediate vicinity of a village, even though the land is subject to primary interests, permission must be sought in respect of forest adjacent to cultivations. In some cases, on Guadalcanar, firewood required for a feast might have to be paid for - a stack of about 64 cubic feet would cost £1.

20. In Malaita, it was generally agreed that prior to the war,

secondary forest as well as primary forest was freely accessible for any purpose, although non-members of a particular line or land group had to ask permission before clearing for cultivation purposes. Today however, rigid control is exerted, especially between bush and saltwater people. Gathering of produce is forbidden without payment; the effect of this is that persons without primary interests or firm secondary interests in a land, have to go elsewhere for their requirements, or are expected to pay. In most cases, they go elsewhere; the saltwater people have to conserve their established but limited interests, or go far inland. There, they can run into difficulties with the bush dwellers. Although the position is not as strict elsewhere - permission, being sought, is seldom refused - it can be expected that as population increases and competition for coastal lands is stimulated, control will be tightened.

Grasslands

21. As stated earlier in this report, Mr. F.S. Walker was of the opinion that grasslands should be included as a secondary forest type because the evidence points to mankind being responsible for at least their perpetuation. Such lands occur mainly on the plains (nata) of Guadalcanar; they are covered by coarse kunai grass (Imperata cylindrica - bebea). Rolling foothills are similarly covered, but grass and fernlands are found on Florida, Saint George island and Vanikoro. Solomon Islanders treat grasslands in the same way as virgin forest. Interests in such lands are dependent upon grass being cleared and cultivations established. Since the grass is seldom eradicated in the clearing process and few economic trees are planted, the basis of any claim of rights is usually on tradition based on hearsay. The grass plains of Guadalcanar are not favoured for cultivation, since "good" soil is said to be limited and Solomon Islanders find working such land almost unendurable because there is little shade. Besides, plenty of forest lands exist and with the widespread grass fires which occur during the drought season, cultivation is hazardous. However, in the vicinity of well established villages such as Gaimali and Roroni signs exist of cultivations being steadily increased outwards from the bush which occurs about the rivers and swamps. On Florida, only the verge of the grasslands is cultivated and seldom for anything other than pineapples, tapioca or sweet potatoes. No such cultivations are found on Saint George island or Vanikoro.

Economic Trees

22. Economic trees are normally distinguishable from virgin or secondary forest because they have been subjected to at least minimum acts of cultivation. For the purposes of land tenure, they are broadly divisible into four main classes, depending upon their principal significance, namely:-

- (i) Food trees, e.g. breadfruit, ngali nut and all forms of fruit trees both imported and indigenous.

- (ii) Material culture trees, e.g. ivory nut, trees used for manufacture of canoes, spears, weapons and implements, etc.
- (iii) Trees from which stimulants are obtained, e.g. betel nut and all trees from which medicines are obtained.
- (iv) Cash crop trees - coconut, cocoa.

Thus although the coconut is principally significant as a cash crop, it is also a food tree; it provides the fibre from which certain rope is manufactured and is therefore important in the material culture; in Sikaiana and at the Gilbertese settlement in Gizo, the tree provides different types of stimulating drink. On the other hand, at Tikopia the coconut is not a cash crop. The ivory nut provides certain types of food, while the leaf is used for thatch; then again, before the war, the nuts were an important cash crop. Furthermore, the different categories in each class hold different significance in different societies. Thus, on Malaita, the different species of ngali nut far exceed in importance the breadfruit or indeed any other food tree, quite apart from the fact of whether or not the breadfruit grows successfully on Malaita. On the other hand in the Reef islands, the breadfruit is given paramount regard though the coconut and ngali nut follow closely. Finally, on Malaita, the cocoa tree as a cash crop was introduced in a plethora of political suspicion and is regarded quite differently from the coconut.

23. Primary interests in economic trees are acquired in the following ways:-

- (a) by act of planting;
- (b) by acts of discovery and cultivating, i.e. if a sapling, to clear the undergrowth away;
- (c) by natural seeding from a tree over which a primary interest is held;
- (d) by recognised modes of transfer as described in Chapter IX.

Thus irrespective of an individual's interest in the land, if he plants a tree, he establishes a primary interest in that tree and is thus entitled to exclusive possession of the fruit or any other produce of that tree; and if the seed of the tree falls and grows, by right of the primary interest in the parent tree, the individual assumes exclusive possession of the seedling. Again, if he discovers a seedling growing in the forest, and if there is no mark of any other person having established a prior interest, he is entitled to clear the undergrowth and assume possession. If it is a coconut washed upon the shore which has started to grow, he may cultivate it, providing no one has established prior possession. Finally, an individual may assume exclusive possession of any tree bequeathed to him by his father or in the event of the father being intestate, to such trees as are given to him by that individual who in accordance with custom disposes of the father's property.

24. The emphasis in the previous paragraph has been on exclusive individual possession. Several questions present themselves, and the first one can be divided into three parts; namely, to what extent in earlier times did Solomon Islanders plant economic trees as a group; in what manner are such economic trees held today; and finally, to what extent is group planting still carried on. Considering the first part, while the earlier anthropologists tended to emphasise "communism" in certain types of property, most were agreed that trees were held individually. On the other hand, this Commission has seen certain group held groves of coconuts and ngali nut trees which tradition indicates are at least more than 60 years old. As regards the former, very elderly informants stated that "before" they planted coconuts for food only; when the earliest European settled and started trading in coconut oil, they persuaded ("give order") the local chief or authority whose patronage they enjoyed, to make their people plant coconuts to expand their oil business. This the chief did by marshalling his people to clear and plant coconuts as a group. A few such groves are still to be seen at Kia and Santa Ana. As regards the ngali nut groves, it was the custom, according to elderly informants in the Roviana and Marovo for Bangara to order the planting of groves of ngali nut trees following a successful headhunting expedition, and in preparation for further expeditions in the future. But such plantings were rare. "When the Government and missions came", so it is said, "we were told to form large villages on the coast and plant many coconuts. This we did, but it was not according to our custom, for when the 'old' chiefs died the new chiefs had no power, and so each man planted his own coconuts."

25. Coming now to the second part of the question, it seems that many common groves have since been divided individually among the people. This has happened in the Wana Wana and at Ugeli. But in Santa Ana and Kia, some still remain and are held by big lines or else by all lines comprising one clan. They are controlled by the most senior land authority, and individuals take it in turns to harvest a flush for copra; alternatively, the "paddock" is divided into groves and allocated to the use of each member. In the Marovo however, group harvesting of ngali nut groves is common, as indeed it is in North Malaita where some groves are held by lines.

26. As regards the last part of the question, individual or family tenure of economic trees, particularly cash crop trees, is now the general rule, but exceptions do occur, notably in Arosi, San Cristobal, and parts of Malaita. In both these islands, political troubles since the war have engendered a fixed belief in the importance of organised progress leavened by a return to customary principles. This manifests itself in custom chiefs and "farmer committees" preaching the advantages of "big farms" planted by every man in a sub-district, passage or group of villages, on a basis which on the surface amounts to voluntary effort, but underneath is not dissimilar to forced communal labour. Thus at Manokwai, Ariari, as the Council delegate explained, all the men of the passage work one month on the "farm coconut" and one month "contract" (i.e. for them-

selves). The "farm" is being laid out on a high hill, which may be entirely unsuitable for coconuts, under the direction of the local farm committee. In this area, any suggestion of European technical aid and assistance is quite unwelcome. While it is clearly desirable that an area with such a bad political record as Ariari should undertake any form of positive activity of material benefit, it is thought that the techniques followed will not provide much return to the persons performing the work, that with the principle of individual possession of economic trees firmly established, the harvesting of crops and disbursement of profits will almost certainly cause trouble in the future, and finally, in the event of failure, the leaders in the enterprise will have to find some scapegoat which inevitably will be the Government. The fact that a number of people have co-operated as a group to clear forest and plant cocoa and have then subdivided the grove into individual plots is indicative that a number of Malaitamen are by no means convinced of the soundness of group ownership.

27. The second question which arises is the degree to which exclusive possession does in fact apply to economic trees. The reasoning of the Solomon Islander works in this way. He knows that every economic tree except those which are undiscovered are vested in someone's possession. In his community, he doesn't know who owns some; he does know who owns most of them. If he wants to chew betel nut, eat a mango, drink a coconut and is far from his own trees, he will help himself from a tree owned by someone (usually a relative) with whom he is on good terms, and tell him the next time he sees him. He knows that the owner will do the same by him one day. At the same time, providing he is not a thief, he wouldn't help himself to half the produce of the tree or damage it in the process, or take a dozen of the coconuts home to make into copra. If he doesn't know the owner, or if the owner has made a customary prohibition on the trees, he won't touch them. Customary prohibition will have been made by oral declaration, a sign in the form of a twisted vine around the trunk, two crossed sticks, or a notice with the simple word "tabu"; "No Trespassers" is being increasingly used. It is the right to make a customary prohibition, and above all to have it obeyed, that is the essence of exclusive possession. More recently, on Malaita this is translating itself into a right to expect payment for the fruit or produce used.

28. The prohibition is not only to assert possession; it can also infer:-

- (a) that the person prohibiting wants to conserve the fruit or product for his own use;
- (b) that he is concerned to let the fruit ripen before it is used;
- (c) that following intensive use, he wants the tree to recuperate;
- (d) that he is frankly mean and doesn't trust anyone;

- (e) that he is afraid of sorcerers destroying the tree.

Another characteristic of exclusive possession is the right to cut the tree down. Conversely, no one else has that right, and if a tree is in fact felled by someone who hasn't that right, he will have to pay compensation to the owner.

29. Finally, the most important question of all - what is the relationship between exclusive possession of economic trees and the land on which the trees grow. Bearing in mind that in pre-protection times no one cultivated far afield for fear of enemies, and that in itself limited cultivation to areas in which neighbouring cultivators were all known, the principle can be stated that with the possible exception of the heavily populated places like Tikopia and the Reef islands, a man planted or cultivated economic trees on land which was both empty and convenient to his habitation. Consent was required if primary interests were not held but it was freely given. By planting a tree, a secondary interest was established. In the Reef islands, Santa Ana and Tikopia, and probably a number of other places, control was stricter. The result of all this has been that a very large proportion of the older groves of economic trees are planted in land on which the owners of the trees have no primary interests.

30. During the past 60 years the situation has changed. The present position is subject to variation from place to place and lies somewhere between two levels of principle. On the one hand, in certain parts of Malaita (mainly western Kwara'ae), the extreme view is held which denies permission to plant economic trees unless primary interests in the land are held; indeed, it goes so far as to require that if cash crop trees are planted by a member of a line in that line's land, a proportion of the profits (i.e. "interest land") shall be paid to the other members. The lesser view holds that permission must be sought but is unlikely to be denied - this is found in parts of the north coast of Guadalcanar and Ysabel. The more normal principle is that permission would be granted for the planting of all but cash crop trees, i.e. coconuts or cocoa. This applies in Savo, Florida, San Cristobal and in most places in the Western Solomons, particularly Choiseul. Although cocoa is still in its infancy, similar difficulties are arising.

31. The main issue, however, centres around the planting of coconuts. The reasons for this are simple; copra fetches a very high price relative to pre-war years, and coastal land on which coconuts are best grown is at a premium in any case for ordinary settlement and cultivation purposes. Thus in places such as Ysabel, where since 1949 the Council has actively encouraged the planting of coconuts, relatively little coastal land is left, especially in the Maringe, Gao and Hogorana sub-districts; apart from this, alienation to Europeans in the early days has deprived the people of a considerable proportion of coastal land in the settled areas. On the other hand, in Choiseul where economic activities are carried on in a welter of suspicion and jealousy, and on a severely competitive and individual

basis, considerable areas of coastal lands were still unplanted in 1953 because the primary interest holders, mainly elderly men, make no use of the land themselves but refuse to make it available to others. (The position may have changed somewhat in the last few years.) The problems which arise from all this can be summarised briefly as follows:-

- (a) There is an increasing tendency for holders of primary land interests to attempt to eject the holders of secondary interests where such interests are limited to exclusive possession of coconuts. In such circumstances any replanting or extension becomes impossible.
- (b) On Malaita, members of a line tend to prevent fellow members from planting cash crop trees in land in which all hold primary interests, unless they are promised a share of the profits ("interest land").
- (c) Primary interest holders in lands suitable for cash crop trees tend to make no use of land themselves, but deny the use of it to others.
- (d) Competition for coastal lands is stimulated and although cocoa is normally grown inland from the coasts, suitable land is reasonably close to the sea; it can be expected, therefore, that if the industry is established and a high cocoa price is maintained, competition will become even keener, especially on Malaita.

32. There are no easy solutions to these problems, which must be tackled realistically but with patience and tact. As regards (a) such tendency has received no support from the courts as far as can be seen, but it is possible that ill-judged administrative action might have encouraged it in a few instances. Undisturbed possession of the trees, (and obviously the use of the land) would constitute a strong prima facie case for any adjudication of title to take the line of persuading the primary interest holders to transfer the land to the person in whom possession of the trees is vested. If the primary interest has never in fact been exercised, but is based only on a vague tradition, the question of transfer might not even arise, and adjudication in favour of the possessor of the trees might proceed.

33. Turning to (b), the Commission considers that the more responsible Malaita leaders do not favour this principle, which is a dangerous one and quite unsupported by native custom. It appears that the idea has developed from a badly conceived and ill expressed statement by a responsible member of the Malaita council, and since profit was involved, it quickly spread and gained currency. It is suggested that the principle is one which the Malaita Council should debate as soon as possible so that the position can be clarified. In this connection, it might be mentioned that a Field Assistant of the Agricultural Department, before laying out a cocoa plot in his line's land, took the precaution of securing the signatures of all

members of the line to a document which broadly stated that when the crop reached bearing, no "interest land" would be demanded from him. The validity of the agreement is another matter.

34. Coming now to (c), endless propaganda is needed by both administrative and agricultural officers to insist that land is quite useless unless it is worked. If a line does not want to work the land and it is not required for their support either now or in the future, it should be made available to someone who needs it or can use it. In this connection, it is preferable that such land should be transferred outright by cash sale, rather than by the granting of permission ("allow" or "let" in pidgin English) for cash crop trees to be planted. This should be made clear, but care must be taken to ensure that the people do not get the impression that Government is proposing the sale of land to Europeans. Side by side with this policy, Government should actively discourage, as a general principle, the planting of economic trees in land in which no primary interests are held.

35. The problem referred to in (d) is discussed in Chapter XII.

36. Concluding this section, a brief reference is necessary to the Solomon Islander's approach to the planting of economic trees. Coconut groves are usually laid out on coastal land which has been cleared for subsistence cultivation. The nuts may be planted among growing crops or after harvesting. It is common practice for sweet potatoes or bananas to be grown among the young palms to keep the undergrowth down and avoid too much weeding. Although some men choose nuts for planting according to size or the productivity of the parent tree, little selectivity is applied. Proper spacing of the palms is becoming more common, but the greater proportion of the older groves are planted too close which results in the trees being choked. When the palms reach bearing a proportion of the undergrowth is cleared, simply to facilitate ease of collection of the nuts.

37. Although the planting of cocoa on Malaita was launched in an atmosphere of political strain, partly to answer the criticism of political leaders, and partly to meet the island's abject need for internal economic development, groves have been established more systematically. In almost all cases, the seed has had to be obtained from the Agricultural Department. This has meant that officers could offer direct advice on the selection of suitable land and soil, clearing and contouring, adequate spacing of trees, shade arrangements and later weeding. Such advice has generally been adopted. Cocoa is to be found planted under mature forest canopy with undergrowth cleared, light secondary vegetation with mature trees felled, thinned forest, and cultivated leucaena.

Minerals

38. It is in respect of minerals that the Protectorate Government has exerted the maximum control over natural resources. Minerals have been appropriated to the Crown by section 4 of the Mining Regulation (Cap 53) which states:-

"All minerals of every description in or under all lands of whatever ownership or tenure and in whosoever possession or enjoyment, they may be, are and shall be deemed always to have been, the property of the Crown; and shall be deemed not to have been parted with under any alienation, dedication or lease or licence or permit of such lands, save in so far as such rights may in any case have been limited by any express grant made before the commencement of this Regulation; and the Crown shall have full liberty at all times to search, dig for and carry away all such minerals of every description and for that purpose to enter upon the said lands or any part thereof."

Royalties on minerals are payable to Government by holders of mining leases or interim permits to mine, but the High Commissioner may exempt for such time as he may think fit any holder of such lease or permit from the payment of royalties.

39. With the exception of the hot sulphur springs found on Simbo, Vella Lavella and Savo which are occasionally used for cooking, minerals, unlike other natural resources, have no significance in the social or cultural life of Solomon Islanders. There is, however, a belief that the surface rights to the land extending under the sea to the reefs which "join" the land, include everything which might be found below the surface. This belief is widespread generally but is expressed more forcibly in Guadalcanar, Florida, Malaita and San Cristobal. Guadalcanar and Florida have been the object of some attention from commercial mining interests both before and since the war, while in Malaita and San Cristobal, land consciousness is particularly strong. Political leaders in these latter islands watch the position in Guadalcanar with keen interest. The Geological Survey has carried out its work in all islands with conspicuous success and with few political difficulties.

40. In most parts of Guadalcanar and especially Tasimboko, Paripao and Malango/Vulolo - places where the people were familiar with mining operations before the war - land authorities have expressed themselves as incredulous that apart from compensation payable in respect of damage to the surface of the land or to crops or improvements, land "owners" would derive no direct profit from the exploitation of minerals. They are thoroughly sceptical of deriving any indirect financial or material advantages from the establishment of a mining industry. At Tasimboko the opinion was expressed quite frankly that companies should be required to publish details of their annual profits, and that the council at least, if not the "owners", should be given a share of such profits. They spoke of relatives and friends in the Gold Ridge area as "owning gold and silver". Similar views are held on Malaita, especially in Ariari; there the attitude towards mineral development is one of "we can't, and you shan't".

41. Since the war, many questions have been put to administrative officers and geologists on the subject of ownership of minerals, in almost all parts of the Protectorate. In most cases the law has been patiently explained and graphic descriptions even given of the costs of mining, and economic benefits which can accrue to the population as

a whole. The Commission is of the opinion, however, that Solomon Islanders remain completely unconvinced; they may appear to be, and they may even withdraw objections which are sometimes raised against geologists and prospectors. But they are still unconvinced; for until such time as the Crown exercises a visible act of ownership in respect of minerals believed to exist - that is, when a licensed mining company begins operations in earnest - the people will continue to reserve their position, neither accepting nor denying positively the Crown's title. In the event of a major mining development being undertaken, it is conceivable that a situation could develop in which, unless Government is able to satisfy and allay vocal complaint and political ill feeling by frank, positive and instructive explanations of its policy, it may become necessary to retreat from the present position. Every effort should be made to avoid this, and it is suggested that measures might be taken along the following lines:-

- (a) to arrange for Solomon Island leaders to see something of the magnitude and cost of mining development in New Guinea or Fiji;
- (b) to encourage Solomon Islanders to take up small mining leases as is done in New Guinea;
- (c) to give Solomon Islanders every opportunity to invest capital in sound mining companies which establish themselves in the Protectorate.

42. If such measures fail, the situation could probably best be met by making an annual "mining grant" from General Revenue to be proportioned among all councils. In this manner, the Crown's position would still be maintained, royalties would be untouched, and no single council would benefit to the exclusion of others. It is believed that, carefully explained, such action might go a long way in meeting a situation which could well become impossible. Timing would be very important. It would indeed be a pity, after so many years of effort, if mining were to fail to begin for the sake of a rigid principle which might become impossible to maintain.

43. It is emphasised that careful administration will be necessary in respect of section 85 of the Mining Regulation, which provides for payment of compensation in the event of possible damage to improved native land. No procedure is provided whereby the nature of interests held in such land can be determined in the event of failure to agree over compensation payable under section 78 of the Regulation. The Commission recommends that a form of procedure similar to that proposed in Chapter XIV for adjudication of title in native land should be followed, and that the enquiry should be conducted by an adjudication officer. It is suggested that the procedure could be made the subject of special Rules under the existing regulation.

44. Finally, attention is drawn to the fact that in many countries agricultural land has been damaged beyond all repair by

mining operations; this has resulted in the displacement of people because they have lost their only means of subsistence. While, perhaps, little immediate prospect is seen of this happening in the Protectorate, it is nevertheless important to emphasise that frequently, in the first flush of mineral development, essential principles are lost to sight. It would indeed be unfortunate if, in this Protectorate, with the experience of so many other countries to be drawn upon, mining companies were allowed to ruin the land for later agricultural use. Regard should be paid to this, and steps taken to ensure that companies, whose operations are particularly destructive, should be required to leave the land in a reasonable state.

Swamps

45. Freshwater swamps are found in river valleys and a little distance inland from the coasts, while salt water swamps, mainly mangrove, occur on the coasts. The former are valued principally for growing swamp taro, the ivory nut tree and for fishing. The latter are important for gathering crabs and shell fish or cutting swamp timbers, used often in house building. During the dry season, wild pigs are hunted in the freshwater swamps; crocodiles are found in both.

46. All swamps are regarded as being subject to the similar interests as the land, but it is only in places where there is pressure on the land, or where Europeans or Government are interested in the timber resources, that control over the swamps is closely exercised. Thus on Santa Ana, cases have occurred of areas of freshwater swamp being sold to persons wanting to plant swamp taro, while in Tikopia, interests in swampy areas are carefully respected. In the Reef islands the timber of the saltwater swamps is freely accessible to all, but no one would hunt crabs or shell fish in stretches close to settlements without the interest holder's permission. Finally, Government stations such as Auki purchase considerable quantities of mangrove timber posts, and this has placed a value on the saltwater swamps in the vicinity.

47. In the last few years one or two Europeans have made a success of crocodile hunting, since at present the belly skin fetches a high price. Generally, Solomon Islanders fear the crocodile; cases of people being taken by them are frequent, and the great majority are relieved to see these reptiles destroyed. In San Cristobal, however, the claim has been tentatively advanced that crocodiles belonged to the persons on whose land they were killed, and that therefore, a proportion of the profits should be distributed. Such claims are not entertained seriously by responsible persons, and have not been pursued. It is however, an indication of the consciousness with which Solomon Islanders regard their resources where profit is involved.

48. Land surveys which have been completed in the Protectorate, usually refer to any alienated land as starting from "mean highwater mark", which implies that the swamps and mangrove forests below such

a point belong to the Crown. In the light of *Hanasiki v. Symes* it would, presumably, be possible for Solomon Islanders to establish exclusive interests in such swamps and forests. It is desirable, however, that the legal position should be defined by regulation, and this will be referred to in the section on reefs.

Rivers, Spring and Water Supplies

49. Instances of serious drought affecting the supply of water for basic services, and creating a premium value on water, are almost unknown. Even at Tikopia, where drought often follows a hurricane and affects crops, one spring, Korapau, has never been known to dry up. All springs in Tikopia are regarded as being vested in one or other of the four chiefs whose deities were believed to control the abundance or otherwise of water, and who in consequence were propitiated. On Savo, only two streams flow perpetually, but villages or hamlets have their own wells, some of which are very old. In addition, nearly every household has some form of rain catchment. In the Reef islands, springs are rare, but village wells, combined with household catchment, ensure adequate supplies. The standard of well construction in some of these islands, notably Nupani, is poor from the health point of view. In the rest of the Protectorate, rivers, springs and streams are generally plentiful and the main ones never dry up. Even so, some villages are often situated a long way from their water supply - especially on Malaita - and the work of transporting water in bamboo containers places a heavy burden on the women. Only one village in the Protectorate, Hauhui, has established a galvanised piped supply into the village. Bamboo aqueducts are common.

50. The pollution of watering places by defecation was once an act of provocation leading to war; such acts were also committed by tribes or groups at enmity with one another. Today, cases of deliberate pollution are virtually unknown, and coastal villages normally avoid using the waters of streams in which bush dwellers defecate further upstream. This avoidance depends upon local knowledge and it is significant that the older Bosuns of the Protectorate's marine fleet have extensive knowledge of watering places which are free from pollution. However, the question of polluted rivers and streams is one which Local Government could devote its attentions in order to ensure the wider publicity of unsafe rivers, and to avoid unpolluted waters becoming polluted.

51. In general, the principle can be stated that the tenure of water supplies is subject to little control, apart from the principle that village wells are primarily for the use of residents of the village, subject to a few conventional rules laid down by the local dresser or village authority. A household is entitled to the water which its own catchment preserves. Individuals, including Europeans or European-owned vessels, are never denied water if they have need of it.

52. However, in Choiseul, the Shortlands, Kolombangara, Kia,

Guadalcanar, San Cristobal, Malaita and Ndeni, the rivers and streams are controlled for purposes of fishing. The custom of Guadalcanar, particularly on the northern coasts, which have many large rivers abounding with fish, is typical. Each river is divided into fishing reaches called Namo. The primary interests in each reach are held by the line possessing primary interests in the land on either bank. If different lines have primary interests on opposite banks, the river is divided by an imaginary line down the centre. If the river changes its course, which occurs frequently, and cuts a channel through the left hand bank held by line A and the right hand bank is held by line B, then the latter loses its fishing interests to line A. Fishing interests over river mouths are held in a similar manner. If, however, the river cuts another course and flows through two mouths, thus forming an island, the island continues to be held by the line which held it as part of the bank. In this connection it is interesting to note that Dr. Hogbin reported in 1934 that the Simiu river delta was owned in common by all groups in the Kaoka district. This is now denied by the land authorities and leaders in the area, who state that land and fishing interests are held by different lines and individuals; these are widely known, even though flooding makes boundaries difficult to maintain. Permission to fish a Namo must be sought by non-members of a line; secondary interests in the line's land does not confer a right to fish, even though the interests are in respect of lands which march with the river bank. The loan of fishing interests is occasionally granted for a limited period to non-members, but it would be unusual for this to happen without gifts of food or primitive money passing to the land authority. The latter periodically places a prohibition on fishing to build up the supply. The successful exercise of a prohibition is strong prima facie evidence of primary interest.

53. The main difficulty which arises over rivers, streams and springs is the question of title in such resources, especially when it is a question of alienation of adjoining land. As far as can be ascertained, if an area of land is transferred by custom, the water rights (which for this purpose must be held to include fishing rights) are transferred with the land. In the majority of transfers of land in freehold between Solomon Islanders and Europeans, rivers and streams in the land have been included part and parcel with land. More recent transfers to the Crown have followed the same principle. In this way, Honiara acquired its water supply, the overflow of which is Rove creek. But through an oversight, the Crown did not acquire title to the Matanikau river which flows to the sea through Honiara township. Similarly, at Auki, the Kwaibala river, which is the south eastern boundary of the station, is not included in the Auki public land block, and payment is sought from Government for river sand or gravel removed from the river bed. Before the war, the Government acquired a small plot of land straddling a watering point, which flows into Maringe lagoon, for a token sum. This was required to water vessels calling there.

54. During the war, the Americans established a watering point in Mboli passage, Florida. This has recently been renovated, at

Government expense, as a watering place for overseas vessels. The Government has attempted to acquire a small area of land straddling the watering point in order to effect adequate control over the water supply. The primary interest holders have, however, refused the Government's offer on the grounds that they can instal a watering point themselves and sell the water to anyone who wants it. The fact that the "owners" concerned have made no effort at all to exercise any act of ownership over the watering point - in fact, they never even use the water supply or visit it - should not be disregarded.

55. To avoid all these difficulties, together with the many which will undoubtedly arise in the future, it is the opinion of the Commission that natural resources legislation should be enacted to invest the Crown with control in all rivers, waterways, streams and springs in all land in the Protectorate. This does not mean that the rights and interests of Solomon Islanders will be denied. The law must be designed not to preserve such interests in all circumstances, but to enable them to be utilised for the public benefit in such a manner which will at the same time be just to those interests. Such legislation should facilitate the just establishment of any exclusive interests which Solomon Islanders might claim, and at the same time eliminate the possibility of anyone establishing an interest which neither he nor his ancestors have ever exercised. Thus in any public undertaking designed to aid the whole community, the onus will be on the Solomon Islander claiming an interest to prove such an interest; if he does so, then he will be adequately compensated. The Crown should not be obliged to carry out protracted negotiations spread over many years, as in the case of the Mboli water point, in order to provide a public service.

Mountains

56. It is necessary to disabuse any belief which might be held that the mountains and prominent peaks of the protectorate are without significance in the cultural life, both past and present, or that they would not be found to be subject to some sort of interest. In the first place, while visits to the higher slopes of the mountains are unusual, every peak and most of the geographical features are known by names. Rendova with its multitude of peaks, valleys and escarpements, is a good example of this. On the other hand, the high peaks of Savo and Tikopia are cultivated almost to the very top and visited frequently. In the second place, many mountains were used as fortified villages in former times - this was particularly the case in Choiseul, Bugotu, and parts of San Cristobal. The first Lands Commissioner had cause to visit the crater of Kolombangara (5,441 feet) - "an indescribably magnificent one densely timbered from rim to floor.....I doubt whether the crater floor is more than 1,000 feet above sea level" - and found undeniable evidences of former native occupation. In the third place, sporadic hunting and gathering occurs on the slopes and even up to the summits. The hill dwellers of Guadalcanar gather wild foods on mountain slopes, while in Rendova, pig hunting is sometimes pursued right to the summit. The valuable red parrot is snared in the hills of Ndeni.

57. Finally, many mountains have considerable religious or superstitious significance to pagans and, indeed, to many Christians. Thus Mount Tatuve is a "barred" mountain and is still unclimbed by Europeans; determination to climb it in the face of firm opposition by the people led to the massacre of the Austrian Geological Expedition in 1896. In San Cristobal, it is believed that easily offended evil spirits live in the mountains, while at Ndeni and Vanikoro, a tradition exists of "little men" or dwarfs (Lemuba - Ndeni) inhabiting the caves in the mountain. They are feared at Vanikoro but not on Ndeni. Many mountains are believed to be the home of dead souls - Mount Popogi on Vanikoro being an example. At Tikopia, Reani, the highest peak, is significant since it is the first and last point seen from the sea while voyaging, and it is there that the spirits set foot on the island when they visit Tikopia. Tinahula volcano is believed, by the people of Ndeni and the Reefs, to be the home of the dead, and it is said to be haunted by spirits and ghosts significant in myths and legends. This does not, however, prevent the people of both places cultivating the lower slopes. Visits further up are rare and said to be hazardous.

58. Very little of this would constitute evidence of full ownership rights; but it does reflect something of past material culture and tradition. No doubt as time goes by the importance of such places will diminish. But at present, most mountains still have their significance, and in the event of minerals being discovered, careful regard should be paid to such significance. Disregard of these matters leads only to bitterness and unnecessary distress. Kolombagara is an example of this. Thirty years ago, the crater and summit, being alleged waste land, were included in Levers' Certificate of Occupation in place of certain coastal lands on Ysabel which were withdrawn. The first Lord Lever wanted to settle time expired Asiatic labour in the interior, while he also had a notion to build a tuberculosis sanatorium high on the summit. The Kolombagara people protested that they owned the land. The real issue was whether or not they "owned and occupied" it in 1917. The first Lands Commissioner, having heard the evidence and visited the summit and crater, correctly came to the conclusion, within his terms of reference, that the people could not substantiate such a claim. It was disallowed, and the land passed into the control of Europeans, where it remains still. Lord Lever's plans have not eventuated. It matters little to the Kolombagara people that their cherished belief in a great crater lake haunted by the fabulous monster Ratuvo is not true, nor even that few would have the courage to face the alleged perils even if they wanted to visit the summit. It matters far less that Lord Lever wanted to build a sanatorium or settle Indians. They believe that "their people" lived in the crater once, that the summit belongs to their traditions and that now, together with three parts of the island, it has been unjustly alienated. The fact that Levers have improved only a few hundred acres on the coasts is an added source of irritation.

59. In Chapter XIV suggestions will be made as to how mountains and places of cultural significance should be controlled.

Reefs, including Saltwater Fishing

60. In 1921, trochus shell fetched a price in the vicinity of £A.26 per ton; in 1937 it was approximately £A.69 per ton; after the war the price rose steadily and now after several fluctuations, has reached the figure of £A.525 per ton. In the Central Solomons the price paid to the gatherer is of the order of 4/- per lb. - a pound being about three or four shells. The current high price paid for all classes of shell is responsible for Solomon Islanders having developed an acute consciousness of their rights and interests in reefs generally, but more especially in those on which valuable shell is found. Prices will certainly fall in time, as the market is always unreliable.

61. In pre-protection times, reefs were significant for any or all of the following reasons:-

- (a) fishing for food by line, net, spear, poisoning, trap and simple gathering;
- (b) gathering of shells used for manufacture into primitive money and personal ornaments such as arm rings;
- (c) as a disposal place for the dead, cremated or otherwise;
- (d) as the haunt of certain sacred aquatic animals which were propitiated.

Reefs were regarded as being joined to the land, and were subject to interests of varying degrees of exclusiveness, depending upon the precise significance which the reefs had in relationship to the social organisation and culture of the communities which allegedly controlled them. Not all reefs were subject to interests, let alone the same interests, and not all interests had an element of exclusiveness. Above all, not all saltwater people held some interests in any reefs and not all bush people had no interests. Indeed, on Malaita, bush people were in the habit of gathering at low tide on the reefs which extended from the mainland, and occasionally used roughly constructed bamboo rafts rather tentatively, in deeper waters.

62. The most important evidence of an exclusive interest was the right of a land authority or a chief to effect a customary prohibition for a period on fishing or gathering in order to build up the supply of fish, and to have that prohibition respected. The fact that this was often done after an important chief had died has caused many Solomon Islanders to believe that this was "in memory of a big man". The fact that the prohibition was lifted by the chief ordering the preparation of a feast (which seems to have had all the elements of a mortuary feast), to propitiate the spirit of the dead chief, perhaps indicates that the primary object of the prohibition was to ensure a plentiful supply of fish for the feast.

63. Interests in reefs seem to have been vested in varying

directions, depending upon social organisation and culture - from the close subdivision on an individual basis found in the Reef islands, through family or line tenure in the Lau lagoon, to the tribal tenure in the Roviana and the relative lack of exclusiveness in Tikopia.

64. Today, the exclusiveness of interests in reefs is still directly related to the significance of the reefs in the community concerned. Having regard to the fact that not all reefs possess the same resources, and not all communities the same techniques, the degrees of significance can be placed broadly in the following order:-

- (a) gathering shells for commercial sale;
- (b) net or trap fishing;
- (c) gathering shells for manufacture into primitive money;
- (d) line, spear and pole fishing;
- (e) gathering shells for manufacture into ornaments;
- (f) sacredness of certain aquatic animals.

Thus in Lau, Malaita, an individual holding primary interests in a stretch of reef, would exercise exclusive interests in respect of the first three but would not worry over much about the last three. Thus persons in a passing canoe seeing a single turtle on the reef in question might dive overboard and catch it. If they were lucky no protest would be made. But if they attempted to use a net, trouble would occur. On the other hand in Roviana, exclusiveness would only be exerted in respect of (a). The same applies in most other parts of the Protectorate except that where there is a traditional trade in shells manufactured into primitive money, exclusiveness would be exerted. As regards (f), there is of course a decline in the significance of reefs for magico-religious reasons. However, a curious tale recently related in respect of Marau Sound suggests that pagan "owners" of reefs who believe that the spirits of dead ancestors are incarnate in certain man eating sharks, use their "power" to control the sharks in order to drive away Solomon Islanders "poaching" trochus shell on "their" reefs.

65. Reefs are still regarded as being joined to the land, and primary interests in reefs are related mainly to primary interests in the land. There are important exceptions to this principle, notably in Lau and the Reef islands, where primary interests are based upon original discovery and continuous use, or else upon transfer of interests, especially by customary transfer, bequest, sale and loan. Secondary interests can be acquired in reefs. Primary interests are normally vested in the line but can also be held by individuals. Customary prohibition is exerted extensively, and any one of the following factors might give rise to the placing of a prohibition:-

- (a) to maintain an exclusive interest;
- (b) to prevent shell fish such as trochus from being fished out;
- (c) to build up supplies of fish for a feast;
- (d) "in memory of a big man".

Normally the prohibition is made by oral declaration, but "tabu" signs on sticks and even formal notices are used. As in the past, the exercise of customary prohibition and the fact that it is obeyed, constitutes important evidence of an exclusive interest. But it can also be stated that in respect of the present day:-

- (i) not all reefs are subject to primary let alone exclusive interests;
- (ii) interests in reefs may be held by both bush and saltwater dwellers either jointly or separately;
- (iii) an exclusive interest in a reef does not necessarily mean that an exclusive control has been or is exerted in respect of all resources in the reef.

66. Finally, it must be emphasised that even if primary interests in a reef are held by a line, certain individual interests can also be established. This stems from the principle that a man is entitled to enjoy the fruits of his own efforts. Thus the fisherman who spears, poisons, hooks or in any other way catches fish, is entitled to do what he will with them, always subject to such obligations as he may have, to give a proportion to his relatives. Similarly, if he builds a fish trap on a reef by moving stones, he is by right of his labour entitled to the fish he traps therein. If he co-operates with others in the use of nets - to catch turtle, or fish generally, or assists in a porpoise drive (in which a great amount of labour and organization is expended), he is entitled to receive a portion of the meat, a share of the porpoise teeth, or part of the catch: given always, however, that that share will be less than the share of the leaders in the enterprise, who by virtue of their special skills have a right to a superior share.

67. Mr. H. van Pel², Fisheries Officer to the South Pacific Commission, visited the Protectorate in 1956 and in his survey made various recommendations as to how fisheries can be conserved and improved, and techniques developed. These include, the increase of the minimum size of trochus shell from 2½ inches to three inches, the establishment of a close season for six months, improved methods of fish preservation, new types of fishing gear, oyster cultivation, the improvement of freshwater resources, and the desirability of providing minimum training for two Solomon Islanders. The last recommendation

2. H. van Pel, "A Survey of Fisheries Resources in the British Solomon Islands Protectorate". South Pacific Commission, Noumea, 1956.

has been proceeded with.

68. It is now necessary to consider what the law is in respect of interests in reefs. There is no legislation governing the question, but the position is set out in very great detail in the judgment of Mr. Judicial Commissioner Charles in the case of *Hanasiki v. Symes* (1951) (claim by a Solomon Islander and his line against a European in respect of an exclusive customary interest to fish for trochus shell on certain reefs at Marau Sound). The following are the main principles which emerge from the judgment as they affect native custom:-

- (a) that the law of England which is obviously applicable to the Protectorate is that the public is entitled to fish anywhere within territorial waters except where the Crown or a particular subject has gained an exclusive right of fishing or the exercise of the public right has been limited by legislation;
- (b) that such law also recognises and gives effect to local customs which satisfy certain conditions;
- (c) that to be recognised a local custom must have existed for so long that its time of origin is unknown (i.e. from time immemorial), that it has been continuously observed since its origin, that it is certain in its principle and application and reasonable at the time of its inception;
- (d) that in the Protectorate "time immemorial" is the year 1893 the year which the Protectorate was established;
- (e) that the Marau natives have established that it is their custom for the exclusive possession and enjoyment of particular reefs, that is of the substance comprising the reefs and whatever is growing upon them, to be vested in lines to which those natives belong;
- (f) that the right of exclusion under the custom does not extend to excluding the passage of vessels over the reefs and the liberty to fish for floating fish in the course of it;
- (g) that since the custom of one place cannot be proved by the custom of another place, at least in the absence of evidence that the customs are the same, it is necessary in the case of a claim to exclusive possession of a reef, for the custom of the area to be proved.

Subsequently in 1955, Mr. Judicial Commissioner Horsfall in his judgment in the *Fanilei reef case* (which was an action by the salt-water people of Fanilei island against the bush people for exclusive possession of certain reefs adjacent to Fanilei island), found that fishing on the reefs was not exclusive to the saltwater people, but that the bush people shared in the use of the reefs. Thus Mr. Horsfall

found that every person has the right to fish (trochus shell or otherwise) in the reefs adjacent to Fanilei island. Not only was this case important in re-stating Mr. Charles' judgment, but by establishing a common right to fish in the particular reefs concerned, the finding was quite unique in the history of land tenure in the Protectorate in that neither the claimants nor the defendants established an exclusive possession in respect of the resources claimed. Subsequently, in 1957, Mr. Deputy Commissioner Hearth in the Uru reefs case arrived at similar findings.

69. Finally, it should be stated that the opinion has been expressed by the Law Officers that an exclusive possession of reefs by native custom cannot be extended to exclude anyone from diving for trochus shell in the deeper waters outside the ocean fringe of the reef. This has since been given effect in the judgment of Mr. Hearth previously referred to in relation to a particular ocean fringe of reef at Uru. Cousteau techniques of diving, if introduced into the Protectorate, could make this principle important.

70. On the basis of Mr. Charles' judgment, Deputy Commissioners have heard a number of claims for exclusive possession in reefs. A few have succeeded. Improper procedures were applied in two instances. In the first, pending the hearing of the claim an interim injunction was issued, the effect of which was to grant an interim exclusive interest to particular persons, including a European. Subsequently, when the hearing was further delayed, a second injunction cancelling the interim injunction declared that pending the hearing, anyone could fish the reefs. The latter appears to be the correct procedure and should be followed when similar difficulties arise. In another District, public notices were issued to the effect that certain persons had made claims to exclusive possession of certain reefs and that on an appointed date objections would be heard as to why exclusive possessions should not be granted. The inference was that if no objections were raised the claims would be granted. Such a process tends to be dangerous and can lead to resentment and even injustice. Not only should the question of all interests claimed be the subject of positive enquiry, but it is necessary to establish beyond any shadow of doubt that in fact native custom in the area provides for exclusive possession, that it is certain in its principle and application, and that further, the custom has been continuously observed since at least before 1893.

71. Without prejudice to the courts, this Commission is of the opinion that in the great majority of cases, continuous exclusive possession has not in fact been exercised, that the exercise of the alleged exclusive possession dates only from the time when shell prices reached a high level (since the war usually) and further, that if it has been continuously exercised, it is as often as not, only in respect of shells with commercial value or a particular marine product, or in respect of a particular mode of gathering. Bearing in mind the problems attendant upon the penetration of Japanese fishing fleets into Protectorate waters, having regard to the always present possibility of oil being found in the sea bed,

noting possible developments in consequence of Mr. van Pel's report, and in the light of the above and the remarks made in a previous section regarding the lack of definition of title in mangrove swamps below high water, the Commission is of the opinion that Protectorate reefs should be made subject to legislative control based upon the law as it is stated in Mr. Charles' judgment. The Crown should be vested with control in the reefs, saltwater swamps and seas below mean high water mark, and to whatever distance outwards that the needs of international convention and public policy require. Such reefs, swamps and waters which are proclaimed would then be declared free to all inhabitants of the Protectorate, subject to the conditions of such exclusive licences to fish as the Government sees fit to issue. The most important provisions governing the issue of licences would apply to those Solomon Islanders who, under a native custom continuously observed, have established in terms of certain specific conditions an exclusive interest in a particular class of marine product or mode of gathering on a certain reef. Provision would be necessary for licences to be issued to individuals or groups who have established exclusive possession in terms of Mr. Charles' judgment, while new applications could be heard by the courts according to such rules and principles as are laid down by the legislation.

Rights of Way

72. These are of three kinds - proclaimed roads, Government roads and native tracks. The former, as the term indicates, are roads proclaimed under Queen's Regulation No. 2 of 1955. So far such roads have been proclaimed only on the north coast of Guadalcanar in the vicinity of Honiara, and are principally reconditioned American roads. Certain stretches pass through native land, but no complaints have been made against Government's assumption of control in the land. Government roads are little more than six foot tracks which were constructed by unpaid communal labour prior to the war. Permission to construct the road was usually acquired by the district headman from the local land authorities. A proportion of these roads are partially maintained by villages through which they pass. Such roads were never popular on Malaita, as construction and maintenance were communal responsibilities and unpaid. During the Marching Rule, suggestions were made that the land for such roads should be purchased by the Government; this was in the nature of a protest against the principle of communal labour, rather than a serious demand for payment. Finally, a great number of native tracks, a foot or so wide, intersect every island. Right of way is free, but most Solomon Islanders prefer to site their cultivations some distance away to avoid theft of crops.

73. Coconut trees and betel nut palms line many of the Government roads, particularly on Malaita. These have been planted either by the constructors or by wayfarers. The fruit is usually free to anyone using the road. Where trees occur in close proximity to villages, it is normal for permission to pick the fruit to be sought. Periodically complaint is made that the coconuts bordering the road passing through King George VI School at Auki, planted as a "wayfarer's

dole" are now controlled. While appreciating the premium on coconuts at this School, it might perhaps be possible in years to come, when the School has its own groves, to release the wayfarers' trees from control. It would be a small gesture to a principle which is a pleasant one.

74. Apart from the objection on principle to road construction by unpaid communal labour (which now most unfortunately is a political issue in Malaita) little significant opposition exists towards roads. Care should be taken, however, to ensure that the authorities of the land through which the road is to pass are consulted before work proceeds. Intentions should be made widely known through the local council. There is no customary basis on which interest holders could prevent road construction (unless cultivations or economic trees have to be damaged, in which case adequate provision is made for compensation) but careful regard should be paid to local feelings in order to detach road construction gradually from politics.

Hunting

75. In pre-protection times, the hunting of wild pigs, possum, lizards, rats, frogs, flying fox, pigeon and other wild birds was restricted by fear of enemies and the dangers inherent in leaving the immediate forest area which surrounded settlements and cultivations. In immediate post-protection times, with the establishment of law and order, Solomon Islanders began to hunt further afield, and gradually hunting became unrestricted. During the last generation or so, as concepts of ownership have become crystallised, the tendency has developed for land authorities to restrict hunting to persons with primary or secondary interests in the land, and to expect non-members to ask permission to hunt across particular lands. This is marked in Choiseul, Kolombangara, Rendova, Kia, Malaita, Savo, San Cristobal and the eastern and hill country of Guadalcanar. Elsewhere, there is less restriction, but any attempt at indiscriminate exploitation, especially for profit, would be deeply resented. Put it this way:- anyone, including a European, providing he was known, could shoot a bag of pigeons to supply his boatscrew with fresh meat; but if he were indiscriminate and massacred the birds regularly or froze the carcasses for later sale, it would be resented and he would be stopped. Similarly, one or two Malaitamen living in Honiara could go out on to the plains and shoot several pigs in an odd afternoon. But if thirty of them went, with dogs, burnt the plains and possibly used nets and killed 50 or 60 pigs, the people of Gaimali or Roroni would resent it. They would be particularly angry if permission was not sought, especially if the Malaitamen were ill mannered enough not to leave a present of two or three pigs at the nearest village.

76. Broadly, both in restricted and unrestricted areas, the holder of primary interests expects to receive that consideration which is given to a reasonable landowner anywhere in the world, who does not exercise exclusive control over hunting on his land; that is, he has the right to have his permission sought before hunting

begins, the right to expect a token share of the results, the right to expect regard to be paid to his crops, and the right to trust the hunters not to massacre every living thing. At the same time, a primary interest holder or a line is entitled to place a customary prohibition on particular areas of land, such as caves where flying foxes live or trees where possum are found, or any particular place frequented by a certain class of animal. Such prohibitions amounting to an exclusive interest are respected. They are frequently applied on Malaita.

Livestock

77. In pre-protection times, pigs had important social significance connected with pagan ritual in almost every society; exceptions were certain outlying Polynesian islands. While pigs are still important, particularly in societies where there is definite payment for a wife, the conversion of the bulk of the population to Christianity, the influence of the Seventh Day Adventist Mission, and the Pacific war which cut the people off from new breeding stock, have all combined to cause a decline in the number of pigs kept by Solomon Islanders. An exception to this is Malaita, where numbers have possibly increased even though prices have advanced steadily with the exchange value of primitive money. Marching Rule stimulated a reversion to custom, and pigs are fundamental in almost every Malaita social institution. An additional factor perhaps, has been that since Malaitans provide the bulk of the labour force on plantations, they have had easier access to new breeding stock.

78. One of the first administrative tasks tackled after the establishment of law and order, was the control of pigs. Formerly, they had roamed freely in the villages. Orders were issued that pigs were to be fenced. In some places, notably Malaita, such orders were resented, especially since cultivations were usually fenced at considerable trouble to keep pigs out. During the war, control of pigs became difficult and enforcement of the order was relaxed. Control of pigs is now enforced mainly by Local Government, but during the political tensions on Malaita it was a symbol of resistance to let pigs roam free. While Local Government's enforcement of the order is perhaps less effective, it is certainly based on better understanding of the problem. Apart from the health factor, the main purpose of pig fences is to avoid destruction of cultivations which leads to claims for compensation and demands for offending pigs to be killed. On Malaita, it occasionally leads to murder. In pre-war years it was common for each village to have a "communal" area fenced off with stone walls in which all the pigs of the village were kept. The stone walls still to be seen in North Malaita, Ndeni and Santa Ana are evidence of the labour formerly involved in fencing pigs. Individual sties were maintained in some places - especially on the artificial islands, but the village pig fence was common. Today, however, the village fence is rare. Family or individual sties are constructed, and sometimes a line or a land group will co-operate to build one; the family sty is, however, much more common.

79. On Guadalcanar, the problem is tackled in a variety of ways. In coastal areas individual fences are favoured. Alternatively, if the village is on a river bank, cultivations are kept to one side and pigs to the other. There they roam freely, returning to a small feeding fence in the morning and evening. In the inland areas little heed is paid to fencing orders, and gardens are fenced while pigs are allowed to roam. Villages are occasionally fenced, pigs are kept outside and cultivations situated far away. Yet another alternative is to site the village in relation to land contours which prevent the pigs entering the village.

80. Ownership of pigs is based upon the principle that he who feeds, owns. Thus a stranger found feeding a man's pigs would immediately be suspected of attempting to steal the pigs. Normally an individual, family or line constructs its pig sty on land in which primary or strong secondary interests are held and which are based upon close ties of kinship. If the pig owner has no such interests he will have to seek permission from a line he trusts and by which he is trusted; it would not be granted if the pig owner had a bad reputation for looking after his pigs since the line would fear damage to crops. At Sinerago in Koio, Malaita, some lines show a tendency to ask for a proportion of the proceeds from the sale of pigs fed on land in which the pig owner has no primary interests.

81. Procedure in respect of payment of compensation when pigs damage crops is subject to wide variation. Birao on Guadalcanar is typical of many places. The owner of the pig which has offended, normally pays compensation to the owner of the damaged cultivation either with European or primitive money, and nothing further is said. If compensation is not paid on demand, the garden owner is entitled to kill the pig, keep half himself and give the other half to the pig owner. If the garden owner does not wait for compensation but kills the pig out of hand, the case goes to the native court which normally will award compensation to both sides. If the garden owner has warned the pig owner at least twice to control his animal, he is entitled on the third occasion to kill the pig and retain the carcase. Birao custom does not apply everywhere and certainly not on Malaita. To kill an offending pig on Malaita, however great the provocation, is to invite serious trouble. Broadly, Malaita custom favours the pig owners at the expense of the garden owner. But then equity is not a strong point of the Malaita character today.

82. Dogs are kept for pig hunting and are often deliberately starved to this end. This occurs particularly in Ariari, Malaita and Guadalcanar. Dogs are occasionally sold or hired. They have to be kept away from domestic pig sties.

83. Fowls and ducks are domesticated in most villages, but are seldom eaten by Solomon Islanders. They are kept mainly for sale to Europeans. Ownership is said to be based upon feeding, but since there is little deliberate feeding, it seems more likely that it depends on the house in which progeny are hatched. The construction of poultry fences is unusual.

84. There is an increasing desire among more progressive Solomon Islanders to keep cattle for breeding and sale. They are favoured for meat, but not for their milk. Interest in cattle is confined mainly to persons rich in coconut groves, since cleared land for grazing is necessary and fencing is expensive. Such persons favour cattle since they save time and labour in keeping down the undergrowth. Ownership of cattle is also a mark of status. The supply, however, is limited, and many of the small herds owned by Solomon Islanders are found in the vicinity of European missions and plantations which usually keep cattle. Ownership and grazing of cattle is strictly individual. Pursuit of cattle breeding stimulates the emergence of individual tenure and the erection of permanent improvements on the land in the form of fences. It is therefore to be encouraged.

85. The megapode fields are a unique institution in the life of Savo. Sometimes called the bush turkey, because of its similar shape to the part grown female turkey, the megapode bird is unusual in that the female lays its eggs in the sand, the heat of which causes the egg to hatch. The egg laying fields of Savo are situated on a strip of sandy beach, fifty yards in from the sea, on the northern coast between the villages of Panueli and Sisiaka, at a place called Angatoka. Here, three times a day - in the early morning, at mid-day and in the late afternoon - thousands of the female birds are to be seen intent on laying their eggs. The bird digs a hole in the sand about three feet deep, lays its egg there, returns to the surface, covering the egg as it comes; after a time it flies away to the bush, where the rest of the day and the night is spent in feeding. The whole process of laying the egg takes about half an hour. Informants stated that three weeks elapse before the egg hatches, and that the chick takes about three or four days to make its way through the sand to the surface; by this time it is fully capable of flying. Different birds will dig in the same hole day after day, and natives digging for the eggs occasionally find great clusters in one spot. No one could say definitely whether the same bird went to the same spot each day, but the general opinion is that they do not. One egg a day only is laid.

86. By Proclamation, the megapode bird is protected, but on Savo the regard in which the eggs are held has resulted in the customary tenure being consolidated, in recent years, by resolutions of the council. This has brought the birds to a state that can only be described as fully domesticated. The beginning of the fields is lost in legend, which is now known to only a few elderly men. It is said that generations ago the megapode birds drifted to Savo from Tasimboko on the north eastern coast of Guadalcanar. They came clinging to a tree called the Sualei which grows on Savo and which, if found in the area of the egg fields, is regarded as sacred and may not be cut down. The birds came ashore at Quika on the south east Savo coast, and are said to have been evicted by one, Puirini, a male ghost of the Kakauga clan, who was angry with the birds for destroying crops. The birds moved to Angatoka. Because the land was owned by the Kakauga clan, its totem Pokisila, a snake,

interceded with another male ghost of the Kakauga clan, Pogoatalei, to permit the birds to remain. He agreed, and the birds began to lay their eggs. Shortly afterwards, the people of the Zimbo clan living at Siasiaka, and of the Zonggokama clan living at Tanagaika, each purchased four birds from Pogoatalei. In this way the fields came under the control of three lines of the Kakauga, Zimbo and Zonggokama clans, authority being vested in the chiefs of each one. As taste for the eggs developed, the fields were subdivided and sold for primitive money to individuals of these and other clans of Savo.

87. Today the fields are completely subdivided, and it is generally agreed that further subdivision is impossible. The average section is about 100 square yards, and boundaries are marked by rows of sticks. Each section is owned by an individual, who may own several which may not necessarily be adjoining. Fragmentation is marked. Sections change hands for about 22 strings of primitive money (valued at about £A5) and owners are free to dispose their interests to anyone subject, of course, to the limiting control of customary obligations, and the recognised proviso that non-Savoese may not purchase them. When subdivision originally began, the money was paid to the chiefs of the three lines, who distributed the money according to their obligations among their people. A man bequeaths his section to his first born son, along with other land or tree interests which he might have acquired himself or from his own father. Primary interests in the line's lands pass through the female of course. If a man has only daughters, the section is bequeathed to the first born. If he is childless, it will pass to his eldest brother or to his sister's eldest son. The right to clear a section of eggs is often loaned by the owner to a friend or relative for a day or two. Such a loan is, of course, the subject of reciprocal service.

88. The average section is dug over once a week, while larger ones may be dug twice. The work is not difficult, as the sand is soft. It is, however dirty work and the men strip down to pubic covering. For this reason, women do not visit the fields. The tool used is called a Pava. It is made of a softwood from the Vaza tree, and is about 12 by 8 inches in the shape of a flattened circle and has a bevelled edge. The eggs are eaten regularly by the Savoese, and an average section will provide between 200 and 500 a week. They are eaten either hard baked in native ovens, or broken and baked in hollow tubes of bamboo, or else simply fried in grease - the latter being a modern development. Eggs are an indispensable part of all feasts connected with marriages, deaths, house building or religious festivals. A man can eat three to six eggs at a sitting easily, together with other food. The eggs have a high nutrient value, and according to Miss Susan Holmes, dietician to the South Pacific Health Services, they weigh 4 - 4.5 ounces each; approximately 85 per cent of the edible portion is yolk.

89. The megapode eggs are an important commodity of trade on Savo itself, where they are sold at the rate of five for 1/- or traded for native tobacco. Quantities of the eggs are taken

occasionally by cutter boat and canoe to the bi-weekly market at Honiara. Here they are purchased by Solomon Islanders, Chinese and a few Europeans. The demand usually exceeds the supply, although as many as 500 to 1,000 may be taken over on one trip. Regular supplies cannot be maintained, as heavy seas frequently prevent the crossing being made. Trading trips are also made to the villages of north west Guadalcanar and Florida, where many Savoese kinsmen live. Eggs are usually exchanged for primitive money, local umbrellas, tobacco and taro.

90. The Local Council has passed regulations governing the harvesting of the eggs. Anyone walking across the fields without intent to dig is fined £1. This is to prevent an unauthorised person trampling in the soft sand which marks the place where eggs have been laid, and breaking them. When the egg has hatched and the chicken is making its way to the surface, it is held to be alive and may not be killed. The penalty is a 5/- fine. Trespassing on another's section results in a 5/- fine, as does digging for eggs between dawn and 10 o'clock in the morning, which is the period when the birds are laying. Theft of eggs from another man's section is punished with a £5 fine. Within the area between Panueli and Legalau villages and back to the crater, megapode birds may not be killed for food, the penalty being a fine of £1. Offenders are charged in the native court. The council now employs a guard on the fields.

91. Disputes about the ownership of fields are rare, and occur mainly when persons seek to increase their holdings by moving the boundary marks which are impermanent. Such disputes are settled by the native court within its civil jurisdiction. In former times, they were settled by the chiefs of the three local lines of Zimbo, Zonggokama and Kakauga clans.

92. The fields are open to the north west winds and during this season, between December and April, heavy seas pound the fields and drive the birds away. Before 1952 the beds stretched along the beach for a distance of nearly a mile, but in the storms of January and February of that year, which in other parts of the Protectorate reached hurricane force, the fields were almost destroyed as thousands of tons of shingle were thrown up by the sea. The birds clung to two small sections in which all eggs were laid. These two sections were packed with eggs in a solid stack. Gradually, however, the birds spread the fields, and section owners assisted by clearing the scrub along the foreshore. The fields expanded to their present size of about 500 yards long and 25 yards deep. Many persons lost their sections in these storms, and in consequence a demand developed to purchase fields. In spite of the "seller's market" which was created, prices for fields did not increase.

93. The tenure of these fields has been described at some length, since it provides an interesting example of how a traditional social institution has evolved in post-protection time.

CHAPTER IX

TRANSFER OF INTERESTS IN LAND

The matters dealt with in this chapter are among the more complex and difficult of the present day tenure system. This is not only because in former times variations between tribal communities and even within such groups were extensive, but because particular elements of the traditional system appear to have been susceptible to European and other alien influences. A marked example of this is found in certain areas of the Central Solomons where it was normal practice to destroy a proportion of the deceased's property, including growing cultivations and economic trees. Transfer of interests has been particularly complicated by the variation in social change between different places. This is closely related to the extent to which each community has abandoned the primitive economy and adopted the cash economy. It is quite impossible, let alone desirable, to describe every aspect of the transfer system in all its variations. Instead, it is proposed to describe such traditional principles as are still apparent, the manner in which they now apply and the possible course that change will take in the future.

Inheritance

2. To begin this section it is advisable to make brief reference to the way in which the law appears to affect inheritance. Section 30 of the Pacific Islands Civil Marriage Order in Council 1907, provides:-

"(a) Where any person who is subject to native law or custom contracts a marriage in accordance with the provisions of this or of any other law relating to marriage, or has contracted a marriage prior to the passing of this Order, which marriage is validated hereby, and such persons dies intestate, subsequently to the commencement of this Order, leaving a widow or husband, or any issue of such marriage:

And also where any person who is the issue of any such marriage as aforesaid dies intestate subsequently to the commencement of this Order:

The personal property of such intestate, and also any real property of which the said intestate might have disposed by will, shall be distributed in accordance with the provisions of the law of England relating to the distribution of the personal estates of intestates, any native law or custom to the contrary notwithstanding.

Provided always that where by the law of England any portion of the estate of such intestate would become a portion of the casual hereditary revenues of the Crown, such portion shall be distributed in accordance with the provisions of native law and custom, and shall not become a portion of the said casual hereditary revenues.

Provided also that real property, the succession of which cannot by native law or custom be affected by testamentary disposition, shall descent in accordance with the provisions of such native law or custom, anything herein to the contrary notwithstanding.

"(b) Before the Registrar of Marriages issues his certificate in the case of an intended marriage, either party to which is a person subject to native law or custom, he shall explain to both parties the effect of these provisions as to the succession to property as affected by marriage."

The effect of this appears to be that regardless of the marriage arrangements, inheritance of native land is governed by native law or custom, and that native land cannot be disposed of by will. However, the estate of a deceased who has died intestate, who has contracted a marriage in accordance with the Pacific Islands Civil Marriage Order in Council 1907, or the Native Marriage Regulation (Cap 31), unless in respect of the latter, the marriage was an unregistered native customary marriage, and which includes real property, such as land acquired in a manner other than by native law or custom (presumably a Crown Lease or private land) will be distributable in accordance with the law of England. Presumably such real property can be disposed of by will. This is particularly relevant in the case of part-Europeans who have acquired European status under the Definition (Native) Regulation (Cap 26) and part-Europeans who have foregone their European status and reverted to native status.

3. Thus, the law gives recognition to inheritance of native land in accordance with native law or custom; but that is as far as it goes. Apart from a few general statements as to whether or not inheritance of land in different areas is "matrilineal", "patrilineal", or "bilateral", the courts have been silent on the rules governing customary inheritance.

4. The problem of inheritance seems to resolve itself into three distinct but closely related elements as follows:-

- (a) what sort of interests does a man inherit automatically by birth?
- (b) what sort of interests can a man bequeath as he sees fit?
- (c) what are the rules governing (b)?
- (d) how is disposition made?

5. Taking these now in order: as regards (a) sufficient has already been said in this Part of the report, and particularly in Chapter VI, to show that except in a few special cases to be mentioned in this chapter, primary interests are entailed by the rules of descent of the society concerned, and that they descend from one generation to the next, in the male, female or bilateral line. Such primary interests would extend over land and reefs and, in isolated instances, economic trees which the line has planted and cultivated as a group.

6. In societies where matrilineal rules apply - principally Ysabel, Florida, Guadalcanar and San Cristobal - it is becoming increasingly common for copra producers and others associated with the cash economy to deny the principle of entail and to claim full proprietary rights; on the other hand, others accept the principle, but attempt to convert their individual interests in particular plots into proprietary rights. This is especially marked in the case of land authorities. In both matrilineal and patrilineal societies, individuals, who are the last members of their line, tend to assume full individual proprietary rights and deny the rights of male (in the case of matrilineal societies) and female (in the case of patrilineal) relatives to inherit their primary interests after death. This is especially the case on Malaita. At To'obaita, many examples are to be found of the direct male line having died out. Any number of lines descended from females (Ngn-aikwailina) who, while holding primary interests by direct male descent in their own line, lay claim to the lands whose male line (Ainifasia) is "dead". Priority of interests is usually difficult to determine. Prior female descent from the best male line would normally succeed, but long undisturbed and unchallenged possession might be better. On the other hand, if the lands are of little value, no claims may be made at all. In Baelalia, the Ainifasia of Kimiboa, Lakali and Fasimo are all "dead". The lands are deep in the bush. The Ngnaikwailina are disinterested - they have coastal lands in which they are Ainifasia.

7. Coming now to (b), the principle is that a man is entitled to bequeath such interests as he has acquired by his own exertions, together with those which he has inherited or acquired, by some means, from an individual under this principle. They would include the following:-

- (i) Individual interests in particular plots situated in land in which he holds primary interests and which he has cleared of virgin forest and cultivated, or has inherited.
- (ii) Secondary interests in plots which, with the consent of the primary interest holders, he has cleared of virgin forest and cultivated, and which he is permitted to bequeath.
- (iii) Exclusive interests in economic trees which he has planted and cultivated himself.

- (iv) Exclusive interests in economic trees which he has inherited.
- (v) Exclusive primary interests in land or reefs or economic trees which he has inherited or acquired on an individual basis by customary or cash purchase or some other mode of transfer.

8. Going on now to (c), the nature of inheritance rules, it is important to make brief reference to changes that have occurred in the location of property. In the traditional Solomon Island society, prior to the coming of trade goods and European property concepts, most property, in the form of primitive money, cultivations, economic trees and pigs were held by the old men, and young men looked to them for assistance in its acquisition. Over a period of 50 to 75 years the position changed, and the importance of primitive property was challenged by European property. The relationship of age to youth was subject to adjustments. Age still controlled primitive property, but looked to youth, who went to work for Europeans, to provide European money and trade goods. This, youth did with the expectation of receiving assistance with primitive property when it was necessary, for example when the time came to marry. During the last 25 years or so a further change has come about. Earlier generations of old men have died. Age of today went out to work when it was young, or else saved European money and property from copra production or other enterprises. Although more and more young men engage in such activities, the balance of power in European property, together with knowledge and experience of European modes of disposition, are more equitably distributed, although there is a tendency for it to move back into the hands of the aged. At the same time, youth still requires assistance with primitive property.

9. The "rules" which govern the disposal of individual interests are by no means fixed, are certainly flexible, and are being subjected to constant change. In pre-protection times in matrilineal societies a man bequeathed most of his interests to his sisters' children, though his own brothers could expect to receive a share. Primogeniture played little part. Chiefs, however, were normally allowed to bequeath their interests to their own children. Subsequently it became customary to pass them to a man's blood brothers. In both cases a man's own children could expect to be given a life interest if they required it, but were usually expected to provide customary services or make presents of food to the principal relatives.

10. Today, however, it is becoming almost universal for a man to bequeath his interests to his own children, particularly sons, on a primogeniture basis, with his own brothers taking second place in the order. In the case of interests in cultivation plots, some communities, such as Santa Ana, still try to limit these to a life interest only; when the children die, the interests pass back into the female line. Provision of feasts, services and gifts are still expected of the children by the brothers, though these obligations

tend to be disregarded. Daughters look generally to the mother or mother's brother; they may inherit if no sons are alive but the father's brother's sons would have a strong claim.

11. In all these processes, regard is paid to primogeniture, but this is not binding, and shares are often disposed of equally. Resistance to the growing dominance of a man's own children is marked; brothers who feel strongly sometimes deny the children's right to their patrimony and resort to true custom to support their claims. Increasingly, however, the rights of a man's own children are being acknowledged. The general effect of all this is that in societies where matrilineal inheritance combines with patrilocal residence, more and more persons are inheriting rights in land in which they hold no primary interests.

12. In cases where a man has not made known the disposition of his land interests before he dies, or where he has no children, his eldest brother, in consultation with the others, will assume the disposition; it would be unusual to pay no regard to the claims of the deceased's children, especially if valuable presents had been made, but they may have strong reservations over distributing valuable coconut groves to them.

13. Turning now to patrilineal societies, the position is simpler. Formerly it appears that a man's brothers had prior expectations over his children, and primogeniture did not apply. Today however, it is the children and particularly the sons who receive prior consideration. Primogeniture is playing a bigger part. As in matrilineal societies, the brothers may attempt to usurp the inherited interests of the sons, but this is becoming less common. Daughters have expectations, but they would not be considered unless circumstances were such that they required particular land interests - as for example when patrilocal residence upon marriage had neither been convenient or desirable. However, even if they did inherit some interests they would not be free to dispose of them. They would be required to consult the male members of the line first. In Choiseul, daughters inherit few interests in land; a man with a daughter but no sons would apply the principle of Varaeto and expect the daughter's husband to live on his lands, use and guard them until such time as his wife bears a son. When the child grows up, he would inherit his grandfather's interests. The lands will then continue to pass through the male line.

14. In bilateral societies, i.e. New Georgia, where inheritance was once mainly matrilineal, the remarks made in the paragraphs concerning matrilineal societies apply generally, except that regard is paid more or less equally to the children of either sex. With the general reservation that daughters are usually provided for by their husbands, there is little of the discrimination found in the firmly matrilineal societies, with the possible exception of the Reef islands and Santa Ana, where it is quite usual for women to inherit interests in specific plots and they are allowed to dispose of them as they see fit.

15. It is by no means binding that relatives will always inherit land interests. In certain cases, especially where all relatives are dead or far away, a man will bequeath his interests to non-relatives and even to a stranger. This may occur in the case of a man cared for in old age by a non-relative, or when someone promises to provide the mortuary feast upon death.

16. Finally (d), the procedure which is followed in the disposition of interests. In preprotection times, Solomon Islanders did not, of course, read or write. Nevertheless, there were two customary processes by which a man could, if he wished, dispose of his property. The first one is by oral declaration during the course of his lifetime. He will show children and brothers his cultivation plots, or coconut groves, ngali nut trees or stretches of reef and declare who is to inherit them when he dies. Alternatively, he may simply announce his wishes in the long evenings of village gossip. His intentions will become generally known and are binding. The second one is by oral declaration shortly before his death, usually on the deathbed. It is normally made in the presence of relatives and leading members of the line. Each plot, grove of trees or stretch of reef is named and its disposition stated. The occasion is a solemn one, and the words uttered are regarded as binding on the hearers. These two processes could be described as customary disposition of property, and the essence of them is that the intentions of the deceased are widely known. In cases where no customary disposition is made, the person or persons assuming the responsibility will follow a pattern of either formal or informal allocation.

17. From about the beginning of this century, there has been a steadily increasing dissatisfaction among the more educated and sophisticated Solomon Islanders with the customary disposition of property. This is due to (a) extending knowledge of European legal processes of written testaments; (b) growth of individualism; (c) breakdown of trust in the efficacy of social obligations; (d) concern for children of the blood under Christian teaching; (e) blind faith in the written word. With no lawyers permanently resident in the Protectorate apart from the Law Officers of the Government, and since visits by lawyers are rare, district officers, missionaries and planters have been persuaded into drawing up "wills" for Solomon Islanders. Many such wills have been given administrative sanction and effect, though not by the courts. Three have been registered with the Lands Department. Many more are deposited in locked boxes and will appear in the course of time, only to cause trouble and heartburning. Apart from the fact that wills drawn by unskilled hands are usually invalid and provide the testator with a false sense of security, the law as stated at the beginning of this section does not appear to allow for native land to be disposed of by will. This is entirely right and proper, since no formal titles have been issued in respect of such land.

18. A case came to the attention of the Commission in the Star Harbour area of San Cristobal. A former acting District Commissioner

appealed to for help in drawing up the will of a leading chief, and having some appreciation of the administrative difficulties in making testamentary arrangements for native land, gave formal written notice, throughout the sub-district, that the chief in question intended to make a will bequeathing certain lands which were named and described. It was stated that any objections were to be made within a specific period of time and the implication was clear that if none were raised, a clear individual title to the lands had been established. Apart from the probable invalidity of such a procedure in law, it amounts to bad practice in land tenure; it is not sufficient to assume indefeasibility of title in native land because no objections have been raised within a specific time. It is necessary to establish positively the interests in the land by formal enquiry. If this is not done, assumption by the claimant can lead to resentment and even injustice.

19. The question now arises as to the best means of controlling custom in respect of inheritance of native land. There is no immediate urgency in this, but demands are made from time to time. In the first place it is emphasised that the danger exists of unprogressive elements securing the acceptance of ancient principles which today would be vicious in effect and dangerous in practice; secondly, that it is undesirable to petrify something which is in the process of change; thirdly, that having regard to the diversity of custom, any action taken must reflect the wishes of the bulk of the population; and fourthly, that all the implications must be fully examined. Some councils have already shown interest in the question and it is suggested, providing that regard is had to these difficulties that they might be encouraged to resolve on rules of inheritance. This would be helpful to the courts, besides being in the present state of Local Government a useful contribution to the communities they represent. Assistance will need to be given in drafting the resolutions and the Legal Department could be invited to prepare some models. It is strongly emphasised, however, that resolutions should be simple and easily understood by the people, and should not be over-loaded with the intricacies of law. The principle of customary disposition will have to be recognised, and the resolution should be applied only if disposition has not been made. Finally, it would need to have regard to principles of adoption, and to take cognizance of the classificatory rules of relationship in the society concerned.

20. Finally, it is necessary to consider the problem of wills. The Commission is of the opinion that the law should apply as it now stands, namely that land held in accordance with native law or custom and for which no titles have been issued, should continue to be disposed of in accordance with custom and that the Courts should not give effect to wills. It is recommended that this fact be given wide publicity. However, it will be proposed in a later chapter that a procedure be adopted for the issue of titles in native land. If these proposals are accepted, and effect is given to them in law, it is recommended that any titles so issued should be disposable by will or, if intestacy occurs, that the law of England should apply in distribution of the estate. Care will need to be taken that such

wills are properly and legally drawn. If there are no lawyers in the Protectorate, the Legal Department might be invited to provide District Commissioners with pro formas, together with instructions in the drawing of wills. It is, of course, assumed that providing a native has contracted a registered marriage, any Crown Lease issued to a Solomon Islander is disposable by will or the law of England. It is also assumed that any land purchased by a formal deed of sale and which has been registered, is similarly disposable.

21. In conclusion, it is emphasised that this section deals purely with inheritance of land. During the course of its investigations the Commission has been impressed by the extent to which Solomon Islanders are now acquiring a large diversity of European property, including ships, stores and considerable sums of money. Not only is the law obscure on the subject, but it seems to be completely out of touch with the present day requirements. It is suggested that the whole question might be made the subject of close examination.

Customary Transfer

22. Both in pre-protection times and for many years afterwards, land or interests in land were transferred to lines and individuals in exchange for services, in payment of debts and as compensation in respect of a customary tort. With one or two exceptions to be referred to, such transactions were irredeemable and must still be regarded as being "good at custom". Since there is considerable diversity between islands and even tribal communities, it is proposed to deal briefly with the main kind of transaction found in each district. It is emphasised that it should not be assumed either that these are isolated cases or even that they represent the only form of customary transfer which can be regarded as "good at custom". Others can be expected, and providing land authorities in the tribal community are in general agreement that the principle involved once obtained, there is no reason why it should not be accepted.

23. Turning first to the Western Solomons, Choiseul and Vella Lavella used to set considerable importance by such transfers. In the former island, a father who obtained a particularly high bride price for his daughter could transfer a plot of his line's land in which he held primary interests to the father of the man his daughter marries. Other line members, having received a share of the bride price, tacitly approved. Such transfers were not obligatory. On the other hand, the member of a line poor in Kesa (Choiseul primitive money), unable to meet the bride price for his son, and with the agreement of the line, could transfer a plot of land to the line of the girl's father. A man in disfavour with his own line might with the help of another line, seize and hold an area of his line's land. The seized land could, however, be redeemed by payment of Kesa, but it would be unusual for the initiator of the seizure to be accepted back into his own line. For that reason redemption was seldom acceptable. None of these is practised today.

24. In Vella Lavella, it was usual in pre-protection times for the widow of a Tanala (chief) to be killed. The woman's lineage would claim compensation in the form of primitive money. If the Tanala's lineage could not afford the money, land might be transferred instead. A member of one lineage finding the body of a man of another village killed in battle in a distant place, would decapitate the head and return it to the Tanala of the deceased's lineage. Hereditary primary interests might be granted by the Tanala in return for such a service. Similar grants might be made to a man who saved someone from drowning, in return for a feast made for a distinguished Tanala, as payment for hired assassination, or in the event of a man being employed to climb and harvest the nuts of a ngali nut tree, falling down and being killed. Frequently interests transferred in this manner have, with the passage of time and the consent of the grantors, been converted into full proprietary rights.

25. For some years after the invasion of the Shortlands, the chiefs Bware and "old" Gorai made many grants of land to persons who served them, and to their large numbers of legitimate and illegitimate children. Later, the chiefs made grants to fugitives from Buin, Bougainville, whose clans did not exist in the Shortlands. Land was also transferred by the chiefs to commoners who gave feasts or made presents of money. Almost all such grants are now held by lines. Alienation would require the approval of the present chiefs, descendants of the conquerors. Few transfers are made today.

26. In the Roviana, the position was similar to that in Vella Lavella, except that in the case of strangulation of widows, land was often simply seized. In addition, instead of land being transferred for services, coconut or ngali trees might be offered instead. Among the Iokuru and Banieta tribes, transfers were always in land and on the basis of full proprietary rights. No such transfers are made today.

27. In the Marovo, only one case of customary transfer was discovered. Three generations ago the Sangunu tribe lived high up on Vanguu mountain. They feared the people of Marovo island on the shore and asked the Pokodana tribe to live on the Chumba river near to the coast and provide a defensive barrier. The Podokana tribe were given outright a large area of coastal land on Vanguu.

28. In the Central Solomons, the grant of land in respect of hired assassination or services to chiefs occurred at Kia in Ysabel but seems to have been rare elsewhere. In the north coast of Guadalcanar, payment for wives was occasionally made in land; the transaction was irredeemable unless the parties separated, or the woman died without issue. No such transactions occur today. Non-members of a line can and still do acquire hereditary primary interests in the line's land by the provision of feasts and primitive money, provided it is accompanied by consent and residence with the line. The sole survivor of a line may make customary disposition of his line's land to a non-relative who cares for him in old age and undertakes the provision of the necessary mortuary feast. This

is still followed, though in Ysabel mortuary feasting is largely discredited by strong mission influence.

29. In Guadalcanar and particularly in the western and north western areas, both among Christians and pagans, ritual destruction of property is still closely associated with death. After a man has been buried, his son, eldest brother, nearest male relative or self-appointed head mourner, leads the other mourners in partial destruction of the deceased's house, canoe, gardens and odd economic trees. He then distributes the deceased's moveable property such as axes, cooking pots, pipes, calico, etc. Some time later, a date will be appointed for the mortuary feast, at which the mourners bring food including puddings and pigs, and occasionally primitive money. The person organizing the feast (usually the head mourner) has to reciprocate with the exact equivalent. If he is unable to do so, the mourner who has provided the greatest unreciprocated quantity, can demand and receive from the relatives secondary interests in economic trees and cultivation plots. If the deceased was poor, the organizer of the feast may have to meet his obligations from his own resources. Subsequently, without limit of time, the interests can be redeemed by provision of the equivalent amount of the food.

30. Disputes over mortuary feasts going back several generations are common especially in Talise, Sugu and Visale. With the high price of copra, ambitious and avaricious men exploit the custom in order to obtain control over coconut groves. In some cases poor men fearing the derision of relatives and friends for not burying a brother or father in a socially accepted manner, simply accept the fact of total loss of the inheritance and even their own property. It is a primitive form of mortgage. In 1954, the problem gave concern to more responsible persons in the area, and it is suggested that the local council should be invited to examine the present position.

31. Turning now to the Eastern Solomons, in San Cristobal, mortuary feasts are of considerable importance; it is quite common for lines to transfer land or economic trees to relatives who have assisted in their provision. In Santa Ana, land plots are normal, while in Arosi, economic trees are more usual. In Santa Ana, plots and economic trees were often transferred to an Araha (chief) in return for protection, while such transfers were also made for hired assassination. Throughout San Cristobal transfers were made in compensation for serious breaches of custom. Except in the case of mortuary feasts such transfers are rare today.

32. In Santa Ana, it was asserted that land seized in inter-clan warfare in pre-protection times was always returned to the defeated. However, the late Mr. Deputy Commissioner Campbell in a dispute between the Agafi and Amwea clans over certain lands at Port Mary in 1928 stated -- "... it was the old custom, in native wars, for the winners to take possession of the land of the losers. If the original owners could not win it back, they could buy it back.

If the line of a winning side died out the original owners could retake possession of their land for nothing. I agree that the Amwea took possession of this land by conquest. I find the land at one time, at least five or six generations ago, belonged to the Agafi clan; that it was taken by conquest from the Agafi clan by the Amwea clan about five or six generations ago, that their possession does not appear to have been disturbed since by re-conquest or purchase and therefore the Amwea clan are the rightful owners at the present time." Further to this, the fact that it is generally acknowledged both in Santa Ana and elsewhere in San Cristobal, that payment in primitive money or land used to be made for damage suffered on either side, namely men killed and wounded, pigs killed, water fouled and insults openly hurled about particular individuals, seems to confirm the late Mr. Campbell's judgment.

33. Further east in the Santa Cruz group, at Ndeni, plots are still transferred from one line to the other in settlement for mortuary feasts or in return for services such as care in sickness. In the Reef islands, where land is subdivided among families and controlled by the head of the household, plots and economic trees are also transferred in respect of mortuary feasts, in compensation for services, and in settlement of breaches of customary offences. At Vanikoro, a man who provides the mortuary feast for the last survivor of a line, is entitled to half the land of the line. In practice it appears that the feast giver and his relatives take the lot. Both in the Reef islands and Tikopia seizures of lands in former times are held by the descendants today and are still good at custom.

34. Finally, to turn to Malaita, the following forms of transfer are found throughout the island:-

- (i) In payment for hired assassination.
- (ii) In settlement of assistance in the provision of mortuary feasts.
- (iii) By seizure in war or concurrently with assassination.
(As regards the latter some such lands have been handed back but many are still held).

In north Malaita, particularly To'obaita and Lau, the following forms of transfer appear to have been common:-

- (a) In compensation for causing accidental death. Often if death has occurred on another's land, such as by fall from a nut tree, the land and the tree thereon are transferred to the deceased's line.
- (b) For services to chiefs.
- (c) To fugitives protected by chiefs.

- (d) As a reward for information leading to the killing of an assassin.
- (e) In payment for care in old age.
- (f) By grants to daughters who have brought in a large bride price, especially if the sons-in-law are poor in land interests.
- (g) In compensation for a customary offence or for accidental injury.
- (h) In payment for the act of burying someone - usually confined to economic trees.

In Lau, stretches of reefs were also transferred.

35. Of the above, (ii), (a), (b), (e), (f), (g) and (h) can be regarded as still applicable, though land consciousness will gradually militate against such transfers.

36. One aspect of customary transfer remains to be considered. Should transfers by seizure in war or in payment for hired assassination and other of this sort, which today would be illegal, still be regarded as good at custom? This is a problem of some importance since with Christianity and the firm establishment of law and order, various individuals, lines and land groups periodically attempt to redeem former transfers or deny that they are still customarily valid. In the judgment quoted above, the late Mr. Deputy Commissioner Campbell said that a transfer as a result of seizure in war could be upheld. But no general principles have been enunciated in respect of transfers since 1893. Mr. Judicial Commissioner Charles' judgment in *Hanasiki v. Symes* suggests that (a) native custom was "frozen" at 1893 and that (b) such native custom can be given effect only if it is not repugnant to good morals or the laws of the Protectorate. But the problem which arises is this: the islands which now constitute the Protectorate were not all brought under British protection until 1900. This may be largely irrelevant, since obviously the courts would be inclined to treat the date 1893 with a wide interpretation. What is important is that in a large proportion of the islands no real attempt was made to establish law and order until very much later. For example, it wasn't until 1909 that the first District Officer was posted to Malaita, and not until the early 'twenties when it could be said that real progress had been made in establishing law and order. Santa Cruz was not controlled until this time either. Inter-tribal warfare was still going on in Choiseul until the late 'twenties, and no District Officer carried out real administrative work there until 1940. In Rennell and Bellona, the Government was scarcely known to exist until the middle 'twenties.

37. While such a question is a matter for the courts to decide, it seems to the Commission that to take any date other than 1893 to

1900, providing a generous interpretation is applied, is open to serious objection both of principle and application. Apart from this, the important issue is whether or not the interest has been exercised continuously from the date of its acquisition. If it has been, and if the claimant has made no material effort to retrieve his lost interest, for example, if he has not seriously and continuously represented his claim to the Government, it cannot be seen that such a claim could be substantiated. In other words, transfers in respect of assassination or war since 1893, would appear to be good at custom, if after the lapse of a long period of time, the transferee or his descendants have continuously exercised the interest and remained undisturbed in its possession. However, the whole matter is one on which the Law Officers should be invited to provide a memorandum of guidance.

Customary Sale

38. Customary sale was not included in the previous section since it involves a number of special considerations which can best be dealt with in a separate section. It can perhaps be defined as transaction between one group or an individual, and any other group or individual, in which land or economic trees are transferred outright from one to the other in consideration for primitive property such as pigs, shell money, whale's teeth, ornaments or artifacts. The transaction is irredeemable, has the consent of co-interest holders in the land or trees transferred, and is usually well known in the local community.

39. The question of whether customary sale was in accordance with custom in pre-protection times is difficult to answer. The first Lands Commissioner¹ in his report on Claim No. 26 (Telina Island) stated:- "The traditional purchase of Telina by Kusagi connotes Kusagi's recognition of some controlling or proprietary interest on the part of Au in that island, and Au apparently dwelt on the mainland. But it seems impossible to form any conclusion at this date as to whether there really was such a purchase or not. As to whether a sale of land was in accordance with native custom, native witnesses called by the defendants affirmed that it was, and gave instances which the claimant did not disprove." The question did not seem to have arisen in respect of other claims.

40. In the various papers which have been examined, assertions have been made that the people sold land among themselves before the whiteman came. Such statements are not substantiated by evidence, and indeed there is no reason to believe that the transactions upon which the statements were based, were different from those described in the previous section. Another difficulty is that it is impossible to be certain that customary sale was not merely copied from Europeans, for it must be remembered that from 1850 onwards Solomon Islanders were learning something of how Europeans thought about land.

1. F. Beaumont Phillips, "Report of the Land Commissioner on Native Claim No. 26 respecting lands at Telina Island". 18th June, 1924. Unpublished.

41. On the other hand, many individuals asserted to this Commission that customary sale was a common element of the custom many generations ago. They pointed to the words used for such transactions and emphasised that Solomon Islanders were keen traders and bartered almost every form of primitive property including charms and spells, so why not land. Close analysis of alleged transactions of several generations ago proved difficult, since the details given were all too few. It was noted however, that the sums paid always appeared to be token.

42. It has been stated in an earlier chapter that Solomon Islanders were not slow to appreciate the value of land when sold to Europeans in terms of trade goods. However, an examination of a number of transactions over the past 50 years involving primitive money revealed that the consideration paid amounted to no more than a token sum, had little relationship to the area or value of the land; and that although the "exchange rate" between European and primitive money has appreciated, as indeed have most forms of primitive property, this has not been so in the case of land. Having regard to the fact that, apart from a few places, land was generally plentiful before the whiteman came, this is not unexpected. Token payment is the essential common element of customary sale in pre and post-protection times, and this might be taken as a slight indication that this kind of transfer existed in earlier times.

43. But the problem is relatively academic; it can be said that it is probable, but by no means certain, that cases of customary sale did in fact occur in pre-European days; what is certain, however, is that customary sale has occurred during the last two generations in widely different parts of the Protectorate. Cases are not common but they have occurred. On this aspect of the Commission's enquiries Solomon Islanders showed a reluctance to be frank. They are naturally hesitant in making statements in public which might indicate the extent of their personal property, for fear of claims by relatives. Apart from this, there is a curious suspicion that the Government disapproves of such transactions. For this reason details of customary sales are not widely known.

44. Taking the Protectorate by districts, beginning with the Western Solomons, no evidence of customary sale was found in the Shortlands or Choiseul. Isolated cases exist in New Georgia, and a total of 11 cases were examined. Of these, two in Vella Lavella were sales to landless immigrants, one of whom was a mission teacher from Guadalcanar. The remaining nine, in Roviana and the Marovo, were in respect of small islands or coastal lands suitable for growing coconuts and for settlement. The purchasers were persons anxious to establish small coconut plantations. Two in the Roviana were sales to mission teachers who were assisted by a European to draw up deeds of sale alleged to have been registered. Both these transactions are disputed by the descendants of the original sellers - one on the grounds of improper boundaries and the other on the right to sell. Token sums of primitive money or else artifacts represented the consideration. In all cases sales were to individuals, but

inheritance and the passage of time has resulted in the lands now being held by families or wider family groups.

45. In the Central Solomons, the transactions examined showed slightly different characteristics. In the first place they are more widespread than in the West; in the second, transactions between groups are common; thirdly, there is a tendency for lines to "buy out" the secondary interests of individuals; fourthly, cases occur of individuals "buying into" primary interests of lines of which they are non-members; and finally, the consideration is always in the form of primitive money, pigs (live and dead) and food (cooked and uncooked). In these latter cases, the food is usually presented at a feast, which omits offer and acceptance, and since there is no discernible relationship between quantity and area of land, the token principle applies. In many cases, though relatives might assist in the provision of the "purchase price" they did not regard themselves as acquiring an interest in the land. As it was deftly put in Ysabel, "it is the duty of relatives to assist a man in gathering the necessary presents for his marriage; that doesn't mean that in the course of time they can expect to share the pleasures of that man's wife." In the transactions examined, immigrants and strangers figured mainly as purchasers, especially if it was a case of "buying in" to the primary interests of a line; coastal or coconut bearing lands were sold more frequently than bush lands and where groups were involved, whether as vendors or purchasers, consultation between members was usual. In Savo and Florida such transactions are still common, while in Ysabel they are giving way to cash sale. In Guadalcanar it is alleged not to be as widespread as it once was.

46. In the Eastern Solomons, customary sale is very common at Santa Ana where there is pressure on the land, and sub-division on an individual basis is extensive. Twelve cases since the war were examined, though it is probable that more have occurred. All have been transactions between individuals. The following are typical: Kamaike of a Mwaa line sold his land called Wafuni, to Maraini of an Ariu line for one red money. Maraini was short of garden plots and made the offer to Kamaike who was the last surviving member of her line. The area was about 100 yards square. The other case concerned a swamp land called Matararifu, about 75 by 30 yards. Sadias of an Agafe line had no such land in which to plant swamp taro. He purchased the plot for one red money from Furupwongi of an Ariu line, who had acquired it by subdivision and had plenty of swamp lands. In Arosi, three cases were found; one involved an immigrant, a second an ambitious farmer who wanted to increase his area of coconut bearing land, and the third was a man married to an Aoba woman who wished to ensure his children succeeding to the secondary interests he had acquired by clearing virgin forest, by "buying in" to the Aoba primary interests. All these transfers were in respect of token sums of primitive money. Further east, in the Santa Cruz group, the only cases found were in the Reef islands. Here there is also demand for land, since the population is increasing and land is limited; subdivision on an individual basis

is extensive and all transactions are between individuals. Almost all cases of which details were gathered involved European money and will be dealt with in the next section.

47. Finally, on Malaita, although there is competition for coastal lands, customary sale has not occurred extensively. Limited secondary interests have been transferred to individuals for one cycle of plantings for one primitive money; immigrants to Baegu'u from Koio have recently had to pay five monies for land which has been in their possession for many generations, and there have been cases of bush people buying coastal lands from the salt-water people. An example of the latter was the purchase of land at Uru, by Anaefelo and his line, for ten monies. Apart from these, customary sales are rare. Even though the population is denser than the other large islands, close ties of kinship ensure that the demand for land for subsistence purposes is normally met. In the last two or three years, however, the people have started to put land to economic use and problems are now emerging. The present signs are that a demand to acquire coastal lands on an individual basis will increase rapidly, and it is likely that transactions will follow European lines, regard being paid to acreage, fertility and access to good harbours.

48. Mention should be made, however, of one sale of land which is alleged to have taken place many years ago and is of some interest in the light of the early remarks in this section. Waeparo of Takataka, Ariari, claims that his ancestors purchased the island of Ugi, 12 generations ago, for 80 baskets of red money. At present exchange rates, and assuming ten monies of four strings each to a basket, the value would be in the region of £A3,200 which is a staggering sum. Waeparo alleges that when he was a young man, he accompanied his father to Ugi to visit "their lands" and told the people living there not to sell them to the whiteman. This visit is remembered in Ugi, but the alleged sale is denied. The first Lands Commission enquired into Messrs. Levers' titles on Ugi in 1924, and except in the case of one of the claims submitted, found for the Ugi people. The question of interests held by Ariari people never cropped up in the proceedings.

49. Finally, the question arises as to whether or not transfer by customary sale has the effect of destroying the incidence of native custom attaching to the land. Having regard to the fact that where customary sale occurs, land authorities generally agree that such transactions were and still are, good at custom; and since in practice the interests purchased, in the course of a generation usually become merged in the general pattern of customary tenure, whether held by groups or individuals, depending on the source of the purchase money and the ~~circumstances of the sale~~, the ~~opinion~~ is held that the customary element is not destroyed and such transactions should continue to be recognised as being governed by native custom.

Cash Sale

50. The essential differences between customary sale and cash sale is that in the case of the latter, the bulk or all of the consideration is in the form of European money, and that normally the purchase price is related to the area involved and seldom represents a token sum. Transactions are irredeemable and while normally widely known in the local communities concerned, Solomon Islanders are reluctant to speak about them since it is feared that Government will disallow them.

51. Cash sale is not widespread but is found mainly on Ysabel, San Cristobal, the Reef islands and Malaita. It probably occurs elsewhere but cases were not brought to the attention of the Commission, for the reason mentioned above. With the exception of the Reef islands, persons acquiring land by cash sale are mainly persons anxious to establish productive plantations, etc. and who, being sceptical of the customary tenure system, wish to establish firm title in the land which they plan to develop.

52. In Ysabel, cash sale is said to have developed after the War. Five cases were examined. None have been registered, though two had been referred to the District Officer for assistance in drawing up informal documents. Of the five cases, four are liable to dispute. In two cases, the right of the vendor to sell is questioned and part of the purchase money had been given to the complaining land authority in satisfaction. In the third case, the price paid was said to be exorbitant, while in the fourth, the vendor was only a guardian of the land and had not obtained the approval of the primary interest holders. Only one transaction will be referred to in detail here. This was the sale of Pigeon Island, situated in Thousand Ships Bay. The purchaser, Culwick Vahia (now dead) lived at Kia, over 100 miles to the north west. He was an educated man, employed in a good position in Honiara and wanted a trading post close to the centre of Ysabel population about half way between Honiara and Kia, on which he could settle when he retired. The vendors were a line living on the shores of the bay, headed by Opie and supported by George Bogese, an astute retired Assistant Medical Practitioner. The sum asked and paid was £100, which Vahia is said to have found himself. The sum was shared between Opie, Bogese and two others, but in what proportion is not known. The price was fixed with regard to (a) the size, which is about 30 acres; (b) the richness of the adjacent reefs in trochus shell; (c) the fact that a few coconuts and many ngali nut trees were already growing and bearing. Having regard to land prices generally in the Solomons, it is not thought that the price paid for this island was exorbitant. Vahia has since died and his brother is acting as guardian of Pigeon island until his young children grow up.

53. The following is the draft of a document which recently has been shown to the Commission. It represents a "deed of sale" which will presumably be signed shortly in Ysabel:-

"SALE OF NATIVE LAND"

I and my co-owners herewith affixed our respective signatures as hereunder, do hereby renounce on behalf of our clan, heirs, and successors, and assign it to one J. Maneboro of Rasa, Santa Ysabel. All rights, title and ownership of that parcel of land situated on our land known as Rasa. Boundary from the young coconut trees follow down the river known as Rasa river, out to the passage known as Rasa passage, and on the other side follow down the river known as Vathage river and out to the Rasa passage. In consideration as payment of the aforesaid parcel of land the sum of £20 in English money, one large five thwarts canoe worth in English money about £20, 30 baskets of taros worth £7.10.0. in English money, and 12 paddles worth £1.16.0. in English money. The general total of which comes to £49.6.0.

In favour of J. Maneboro of Rasa, Santa Ysabel.

At Rasa this twelfth day of October, 1956.

.....

.....

.....

Witnesses

.....

Before me and certified in order

.....

Assistant D. Headman

Translation then follows in the Bugotu dialect.

54. Three cases are quoted in respect of San Cristobal. The first concerns land known as Afitana situated at right angles to Crown Lease L.R. 206 at Cape Surville opposite to Santa Ana. L.R. 206 is held by a family of part Europeans. It was stated that Munita of a Pagewa line had sold the strip for £A.100 to the holders of L.R. 206 "according to native custom". Formerly the land was held by an Ariu line, of which Aruhei was the land authority.

Aruhei was killed by a shark and the Pagewa lines of Star Harbour provided the mortuary feast for him. The Ariu line transferred Afitana to the main Pagewa line who complained about Munita's "sale" to the District Commissioner. Apart from the fact that under Section 4 of Cap 49, it appears that part Europeans with European status, are debarred from acquiring interests in native land except under the terms of the Regulation (which does not allow for sale, let alone the acquisition of interests, by "native custom"), the case is a typical one of the assumption by Solomon Islanders of proprietary interests in group held land.

55. The second case is in respect of a strip of coastal land called Nauri, an area of about 150 acres just north of Star Harbour. Hanasia, one of the few remaining true Arahas of San Cristobal, held primary interests in this land which he had inherited from a former Araha, it being customary in San Cristobal for true Arahas to hold land in this way. Hanasia sold this strip for £150 to an elderly woman of Santa Ana who has chiefly status and who required it for her large family which is becoming short of land on Santa Ana.

56. The third case to be quoted is at Ugi. The late Peter Waitasu of Hulihale had established himself as a proprietor of extensive coconut groves many years before he died. He was anxious to expand his interests but the only land available was at Sungasau which was held by his line, and which belonged to the Amwea clan. His blood sister was the land authority and Waitasu reached an arrangement whereby he should purchase the coconuts planted by her, develop the rest of it, and when the palms came to bearing, "buy out" the line's interests in the land by annual payments from the proceeds spread over ten years. The precise sum paid is unknown, but the transaction has been recognised as an effective cash sale ever since. When Waitasu died, the fully planted property was bequeathed to his eldest son, Konihaka.

57. In the Reef islands, land is a highly liquid asset and is even sold to pay debts incurred in gambling - a popular pastime. Prices are not high, however, and the majority of sales are in respect of very small cultivation plots rather than groves of economic trees. Suitable cultivation land is scarce, and land for economic trees is almost fully planted up; people are reluctant to part with groves. Added to this, while the people could probably get by without tuber foods, they would find life quite unbearable without breadfruit and coconuts. About 20 cases were examined and these two are typical: James of Nenabo sold a cultivation plot called Nelo, $1\frac{1}{2}$ chains by 1 chain for 10/- to Maepena; the latter was an old man without dependants and had but one other plot; the vendor was rich in cultivation plots. The second one was in respect of a plot called Bvei about 4 square chains: Kio of Namamblo sold this to Kaloa of Nenabo for £3; Kio needed money badly and had plenty of plots; Bvei was far from his village but close to Kaloa's; Kaloa had plenty of money but not many plots.

58. Finally, turning to Malaita, cash sale was uncommon in the

past but a demand exists among persons anxious to develop permanent cash crops, either to purchase suitable land or else to secure a "better than custom title" to lands in which they hold primary interests by "buying out" fellow primary interest holders before development begins. Indeed, in some cases as stated in the section on economic trees, some are hesitant to proceed with such enterprises, unless they can obtain some sort of certainty of tenure. It is anticipated, providing the political position does not deteriorate, that cash sale transactions will increase.

59. The one case to be described relates to the Babalakona land situated in the foothills, about three miles south of Auki. The male members of this line died out a few years ago and the land became vested in the oldest living female in the direct male line. This was a woman called Buagalena who had no children and no relatives in the direct line. Accordingly she was regarded as the sole interest holder in the land. One Luluakalo, a bushman living close to the coast but without primary interests there, offered to purchase the land (perhaps amounting to 300 acres or more) and offered £70 in cash, 17 tafuliae (primitive monies = £85), 2 cases of meat and one bag of rice in consideration for the land. This was accepted. Subsequently, the right to sell was challenged by a Langa Langa group on the grounds that as a female, Buagalena had no right to sell the land, and that in any case their forefathers had acquired the land by conquest. The Court sitting with assessors, found for Buagalena. Subsequently, the plaintiffs in the case sought a declaration of the boundaries. This was given and registered with the Lands Department. There was no appeal. Buagalena has since died. The cash sale has stood and Luluakalo has planted 25 acres of cocoa besides clearing and fencing a large area for cattle.

60. The problem arises as to what policy should be adopted towards transactions such as have been described. The alternatives seem to be to ignore, to forbid or to control. To ignore them would seem illogical, since administrative notice has already been taken. To forbid them would seem equally illogical, since in any case the law could not be enforced and such action would imply the "freezing" of native custom which is now too late. The only alternative is to control such transactions, and the Commission advocates this for the following reasons:-

- (a) that the development of concepts of cash sale is the natural corollary of a policy which has encouraged the adoption of a cash economy and the productive use of land;
- (b) that such transactions have the effect of destroying, in some measure, the incidence of custom attaching to the land, and therefore, should be subject to some sort of control.
- (c) that it would assist in the redistribution of land which

already is mal-distributed;

- (d) that it would assist in making land available for re-settlement;
- (e) that unless control is exercised, the position may get out of hand and introduce elements of land speculation among Solomon Islanders;
- (f) that there is some measure of demand for such control;
- (g) that it would facilitate the breakdown to individual tenure.

It is recommended that control should be established along the following lines:-

- (i) that such transfers should require the approval of the District Commissioner of the district, who would consult the local land committee;
- (ii) that before approval is given, the area to be transferred should be the subject of adjudication of interests by positive enquiry according to a formal process;
- (iii) that the transfer should proceed by deed of sale between the parties and be registered in a central registry, a copy being kept in a district register.

These recommendations should be examined in conjunction with the recommendations contained in Part III of this Report.

Gift

61. It is often claimed by Solomon Islanders using pidgin English that they have acquired interests in land by gift. If this is interpreted strictly in the legal sense, namely that no valuable consideration such as money has passed, the statement is probably true, and a large proportion of the transactions referred to in the section on customary transfer could perhaps better be classified as gifts. But Solomon Islanders don't look upon gifts in quite the way that Europeans do. Gifts are made for services specified or unspecified, performed already, to be performed in the future, or not even conceived for performance either in the mind of the giver or the receiver. There is no conception of gift without expectation of return. Thus customary relations between Solomon Islanders in respect of property rights represent a series of interlocking reciprocities. Looked at in this way, gift of interests in land becomes something quite different.

62. Two examples might be given. Both in Ysabel and Tikopia it is claimed that gift is important in the tenure system. In the former, informants said that the sole survivor of a line is permitted

to claim full interests in all lands, economic trees and reefs of his line. If he is without issue, he is entitled to make a gift of the property before he dies to someone who is ravi (in consanguineous relationship). Normally he will select someone of his own clan who has provided help and services throughout his life. Such a person in accepting the gift would be obliged by custom to provide further food and services, or to give aid and comfort. If death occurs the recipient would be obliged to bury him and provide a mortuary feast.

63. The other example is at Tikopia where it is said that the chiefs in the past have made gifts of land to immigrants or landless persons. In the case of the Te Ariki Kafika, his family lands have been steadily reduced in size from generation to generation on account of this. But the persons accepting the land have incurred obligations - to give food to their patron or to provide him with services. These tasks are usually willingly performed.

64. In all Solomon Island "gifts" of land, there is an element of contract, and if anticipated reciprocation does not occur, the "donor" would be justified in breaking the contract and attempting to redeem the land. The dispute which results is often extremely puzzling to the courts, since the "consideration" in the form of the expectation of reciprocating services seldom emerges.

Guardianship

65. It is customary for persons to be appointed as guardians of land interests. The relationship of such guardians to the land is usually covered by a single word in dialect. The circumstances in which guardians are appointed are as follows:-

- (a) a man leaving his home to live or work elsewhere for a temporary period will choose a relative or friend to look after his interests;
- (b) a man about to die who has young children will choose someone to look after the children's interests until they are of age;
- (c) a man about to die, who is the last surviving male and leaves only female members of his line to inherit the line's lands, will often appoint a guardian to the lands.

The appointment of a guardian is usually well known in the local community. He is expected to "look after" the lands but is entitled to use them as if they were his own. He can, for example, make and sell copra from the coconut trees and keep the proceeds. It would be normal, however, for him to give a proportion to the person or persons for whom the guardianship is being performed. He has no right, however, to alienate or transfer the interests he is guarding. This occasionally is the cause of disputes and two cases were brought to the notice of the Commission - one in Ysabel and one in Roviana - in which guardians were assuming full proprietary

interests in the land by either attempting to sell them or by denying the interests of the true holders. Such cases are fairly rare.

Loan of Rights

66. Interests in respect of land, economic trees, reefs, etc. are loaned by individuals and groups. Normally these are loaned either for one planting, a cycle, a flush or for a specific period of time. Consent is an important element, though on occasions, interests are simply "borrowed", as when a friend helps himself to a few coconuts or betel nut. Almost invariably such acts would later be reported to the interest holder.

67. There is no strict principle about "payment" for a loan of interests. Usually however, the person to whom they are lent will reciprocate in the future, or else make a present of food or primitive money to the lender. Invariably it is dependent upon the terms and relationship in which the parties stand to one another. There is a greater reluctance to lend land interests in strongly individual societies such as Choiseul than in closely knit groups such as Tikopia. In the Reef islands, interests are rarely lent without consideration. Disputes occur when borrowers take too much for granted or attempt to usurp the interests of the lender, but they are not all that common.

Lease

68. Although there is no traditional custom which approximates to the European form of lease, the concept is widely understood, since native land is leased to Europeans. It has been suggested in Ysabel, that the loan of interests should operate on a rental basis, but few would support the idea. On Malaita, particularly in Kwara'ae and Bali, difficulties over sites for businesses have led to claims for "interest land", but these have not brought much result since usually a man prefers to abandon the idea rather than pay rent, especially if payment is claimed by a fellow member of the same line. As has been stated, more responsible persons are against the "interest land" concept since, apart from its obvious undesirable characteristics it is frankly said that lease arrangements are too complicated for Solomon Islanders and the landless persons should be assisted to purchase land outright. It is not impossible that Solomon Islanders will wish to adopt lease arrangements among themselves, but this is unlikely for some time to come. The position should, however, be watched.

Transfers by Charge

69. Apart from customary transfer associated with the provision of mortuary feasts in the western area of Guadalcanar, there is nothing in the tenure system which resembles the taking of a charge on land for the purpose of securing the payment of money or money's worth. Nevertheless, the traditional Solomon Island credit system is complex and widespread, and far too little is known about it.

70. A limited number of progressive Solomon Islanders who have moved out of the primitive subsistence economy into the cash economy, are showing increasing interest in obtaining credit to build boats, develop land, or purchase cattle. A branch of the Commonwealth Trading Bank of Australia Ltd. is established at Honiara and savings bank agencies are at Auki, Gizo, Malu'u, Kira Kira, Yandina and Gojaruru. It is not known how many enquiries the Bank has received in respect of credit facilities, but no advances have been made to Solomon Islanders. The number of Solomon Island depositors, including local councils, totals 1,740, while deposits amount to approximately £A98,000. About one third of this sum is held by the local authorities. The Agriculture and Industrial Loans Board, incorporated under Queen's Regulation No. 1 of 1955, was established two years ago and is empowered to make loans for any of the following purposes:-

- (a) the development, maintenance and improvement of land;
- (b) the promotion and development of crafts and industries;
- (c) the promotion of any scheme of such other nature as may from time to time be approved by the High Commissioner.

A total of 15 applications had been received from Solomon Islanders up to 31st March, 1957. Of these, six were approved in principle but only two loans have been finalised. One was to develop a cocoa plantation and is secured only by the personal status and bona fide of the borrower, while the other, for purchase of cattle, is guaranteed by a European organisation. The applications which have not been finalised are concerned either with land development or the construction of vessels. Difficulties over security have proved to be the stumbling block in the case of almost all rejected applications. Many enquiries have also been received, but security difficulties have prevented the applications even being made.

71. Credit facilities for land development appear to be hampered by the Land Regulation (Cap 49) and the Native Contracts Regulation (Cap 29). Under section 3 of the former Regulation, the alienation of native land by sale, gift, lease or otherwise to non-natives is forbidden. Therefore, if the Bank or the Loans Board took a mortgage over native land it is likely that the Court would refuse to grant a foreclosure order, as this would entail the alienation of land to non-natives. The latter Regulation controls contracts between a native or natives and any non-native, where the consideration involved is more than £A.200. Section 6 provides that in the event of an action being brought by a non-native party for breach of contract, and judgment is given for the non-native party, neither communal property nor the food crops of the native party shall be liable to be taken in execution of judgment: this excludes the likelihood of a lien being taken over economic trees, or, indeed, over land. It would seem that the only way in which credit facilities can be extended to Solomon Islanders is on security of a Bill of Sale over personal chattels (but not growing crops), the ownership

of which has been clearly established.

72. Apart from the legal difficulties which exist, the view is widely held that the Solomon Islander, for reasons of dishonesty and lack of knowledge of commercial practice and obligations, is a bad business risk. Doubtless cases can be cited of Solomon Islanders failing in their obligations, but the Commission is of the opinion that these are the minority and that the apparent lack of responsibility in money matters stems more from inexperience. Every sign exists that a great many are anxious to remedy this and are taking steps to do so. Furthermore, the effective stimulus now being given by Government in the field of education should see radical changes in business capacity during the next ten years.

73. While land consciousness would doubtless deter the bulk of the population from offering their land for charge, the Commission is of the opinion that the demand will increase among progressive producers for the extension of credit facilities for land development. Such demand, in the interests of economic development, should be encouraged and legislative provision made which, on the one hand, will avoid the criticism that there is deliberate discrimination against the granting of loans to Solomon Islanders, and, on the other hand, ensure that whilst land required for subsistence purposes is adequately protected (but not by referring to such land as "Communal property"), proper control is exerted over the agencies which offer credit facilities and the methods by which loans secured by land are made. In brief, Solomon Islanders should be able to charge their land to specified agencies and the law should permit foreclosure in the event of failure to repay the loan. Unless a progressive approach is taken towards this problem, Solomon Islanders will be driven increasingly to seek facilities from less reputable agencies, with the unfortunate results which are to be seen in other countries, and of which there are growing signs in the Protectorate.

74. It is not sufficient, however, merely to effect amendments to the present legislation, to allow security to be taken over native land; such land, with its present customary form of title, would scarcely be regarded as adequate or negotiable security by responsible credit agencies. It is necessary for Solomon Islanders to be able to obtain an indefeasible and negotiable title, and the procedure whereby this can be done is outlined in Chapter XIV.

75. Nor is this sufficient. While Solomon Islanders show themselves to be astute and keen businessmen, the great majority, even the most successful, have a lamentably limited knowledge of commercial practice. They are, however, extremely anxious to learn. Every opportunity must be taken to assist them in such matters, and in this, it is felt certain that commercial agencies can play an important and vital part.

76. In particular, care and patience will have to be exerted in the actual provision of credit facilities. This is necessary not only before loans are made, but more especially afterwards, to

ensure that the money lent is properly and effectively spent. The responsibility for this must fall mainly on administrative and agricultural officers and the representatives of the agencies advancing the money. Unless the responsibility is within the capacity of Government and the agencies to accept, having regard to difficulties of communication, it would be better if credit facilities were denied for the time being.

SUBSISTENCE AGRICULTURE
AND LAND TENURE

Despite land consciousness and participation in the cash economy, the cultivation of the land to produce food is the principle concern of the rural Solomon Islander. However, food is important not only for mere subsistence but it also has sociological significance in that it is the means by which reciprocal social relationships are maintained, labour and services commanded, status acquired and goods exchanged.

2. This chapter will deal briefly with the relationship of subsistence cultivation to the tenure system. Further reference is invited to Mr. J. Barrau's¹ monograph, "Subsistence Agriculture in Melanesia".

Crops Sown

3. The staple traditional crops are taro and yam, panna belonging to the yam group. Both taro and yam are believed by Solomon Islanders to occur in considerable variety in all islands. Each variety has a dialect name. Botanists support native tradition as to the extent of varieties. Depending upon taste and environment, different societies cultivate one more than the other. In Tikopia it is taro, while in San Cristobal it is the yam. In Ysabel it is the yam, while on Malaita it is taro. In most parts of Guadalcanar, both are equally important. Taro is planted all the year round while the yam is seasonal. Solomon Islanders preserve the latter in cool, dry, airy huts but not the former. Taro prefers shady damp soil and is usually grown much further inland than yam, which grows well in light, deep and well drained soils of the coastal lowlands. Different islands and localities follow different techniques of cultivation; these are related to climate, soil, topography and the availability of land. In many places the planting of yams was and still is accompanied by considerable ritual. Less ritual attaches to taro, which is not seasonal.

4. The sweet potato is generally regarded as an immigrant crop of recent origin. On Malaita it is said that it was introduced by Europeans. The ease with which it grows, in almost any soil, especially on the coasts, together with the rapidity with which it fruits, have commended it to most societies. In the

1. J. Barrau, "Subsistence Agriculture in Melanesia", South Pacific Commission, Noumea, 1955.

Western Solomons, particularly Choiseul and the Shortlands, where since the war the best species of taro have died out, the sweet potato has tended to become a staple crop. This has been encouraged by the introduction by the Japanese of fast maturing varieties.

5. Cassava, sugar cane and bananas are the main subsidiary crops. An extensive variety of indigenous shrubs and ferns, the leaves of which are used for garnishings and known as "native cabbage", are widely consumed in all islands. Odd clumps of tobacco are grown and cured for home use or sale. Besides these, many introduced crops and fruits are cultivated in small quantities by people who for various reasons have developed a taste for them, or else sell them to Europeans. These include sweet corn, chinese cabbage, tomato, lettuce, pumpkins, cucumbers, radish, water cress, beans, peanuts, chillies, paw paw, pineapples, melons, citrus and Queensland bananas. The most extensive market for such crops is in Honiara. Recently an attempt has been made to grow European potatoes in the hills of Kwara'ae, Malaita. This has not proved successful.

6. Rice was grown in small quantities on Malaita just before and after the war. It has also been grown in Choiseul. During the past two years an enthusiasm for rice cultivation has re-developed in Malaita, particularly in the Kwara'ae and Suava areas. It is grown for home consumption or sale. Quantities produced so far are small; the area at present under cultivation would not exceed 50 acres.

The Cultivating Unit

7. Throughout the Protectorate, the main cultivating unit is the family, that is the husband, wife and children. The husband directs the work and clears the heavy bush, while the wife and children heap it together and assist in the burning. The husband leads the planting but most of it is undertaken by the women and children. In parts of Malaita and San Cristobal, if the woman is ritually unclean, she does not enter the cultivation. In North Malaita pagan men do not have intercourse with their wives the day before they visit their cultivations. Weeding is undertaken by the women and children. First fruits are harvested by the husband, but the rest of the harvesting is undertaken mainly by the women. Crops are carried home to the village by women. While individual men and in rare cases, women, maintain their own cultivations, the individual is rarely unassisted by members of his immediate family.

8. It is of some importance to consider the extent to which the wider family unit, kinship group, line or land group today co-operates in cultivating food crops. In pre-protection times, strong indications exist that powerful chiefs welded large communities into labour forces to produce food crops for specific purposes - in preparation for head hunting raids or for important ceremonies and rituals. But each family still had its own cultivations. There are also indications that lines and land groups combined to fell and

clear the bush for yam planting. When this was done, the area would be subdivided into family allotments which each family planted, weeded and harvested.

9. Although group clearing is still common, group cultivation is rare today; it occurs for traditional, economic or political reasons. The best example of traditional group cultivation is found in Birao, Malango/Vulolo and Talise on Guadalcanar. There, although family cultivations are common, yam and occasionally taro are cultivated by lines. The land authority assisted by the elders choose the land. They lead the clearing of the lower undergrowth on the chosen day. They effect the subdivision into family plots. They lead the planting of the area. They appoint the day for weeding, for felling the big trees, for interplanting with miscellaneous crops. Finally, they choose the day for harvesting the first fruits. General harvesting then proceeds. In the case of pagans, each stage is accompanied by ceremonies designed to propitiate the spirits and avoid disaster to the crops.

10. Economic reasons are said to account for several groups combining to plant tuber crops for sale in Arosi, San Cristobal. Certain days are set aside by the local council delegate, when everyone in a village or group of villages is expected to co-operate in cultivating the "big farms". The council delegate organises the enterprise - chooses the land, gets the owners to agree and persuades support from the people. Traditional leaders direct the actual work of planting, weeding and harvesting. Division of the proceeds is directed by the delegate. A similar principle is being applied in the case of the "union farms" which have been established to grow rice in western Kwara'ae. The incentive is partly political. It runs something like this: "When there were no whitemen, we lived according to our custom and to make a big feast we all worked together. We have seen what the Americans could do on the farms of Guadalcanar during the war. Many men worked together under a leader and produced big crops. It is our custom to work together. We must therefore return to our custom and work our farms as lines; we will then produce big crops and these will be sold for money and we will all share in the big profits." Since the techniques which are followed are traditional and the land "owners" and operator of the rice huller demand and get the greater share of the profits, little is left for the workers.

11. The thin line between "economic" and "political" incentive is seen elsewhere in Ariari, where the "committee" system flourishes. Many of the members of the "farmer committees" are pagans. Some of these are opposed to profit making agricultural enterprises since it is "against the custom". But they believe that "big" gardens and "big" farms, which are directed by Alahas (custom chiefs) are very much according to custom. The "farm committees" led by the pagans therefore direct the people of a village, several villages or a passage, to plant staple crops on a group basis. The similarity between these activities and the Marching Rule farms, which on the surface represented a drive for better agriculture, and covertly was a means of feeding the people who gathered for political meetings, is

too obvious.

12. At Hauhui in Ariari, a Christian village, the combination of a competent headman stimulated by a short-lived Government sponsored community development project, has resulted in some success being achieved in group planting of Malay coconuts, cocoa, rice and staple foodstuffs. A proportion of the produce or profits is divided equally between participants, while the balance is used for community projects. The general supervision is undertaken by the village farm committee.

13. The initial cultivations of the advance parties of Tikopian and Gilbertese settlers at the Russell islands and Gizo have operated on a group basis. The results at the Russells are spectacular, while at Gizo they are disappointing. The Tikopians are thrifty people who cultivate their home island intensively. The Gilbertese are intense individualists but are not cultivators by tradition.

14. To conclude this section, attention is drawn to the fact that in western Kwara'ae and parts of North Malaita, the "interest land" principle previously referred to is preventing individuals with primary interests in their line's land from cultivating cash crops for sale. Implicit in this is resentment of individual enterprise, and of people who set themselves apart from the group and participate in the cash economy.

Tools

15. When Europeans first visited the Solomons the principal aids to cultivation were fire to clear the bush, the clam shell to scrape the weeds, and the digging stick to ease the soil. The latter is not a permanent tool. New ones are fashioned to a rough point as required. Flint axes were used mainly in felling trees for special purposes such as canoes. Europeans introduced the axe and the knife and these were in extensive use in coastal areas by the late nineteenth century. During the past sixty years, they have entered into general use for all agricultural purposes. No other radical innovation of tools has occurred. The hand plough is unknown. The Solomon Islander would never handle draught oxen; he is more likely to buy a tractor. Though familiar with the spade, shovel, mattock, hoe and rake on Government and mission stations and plantations, only a few individuals have adopted them. During and after the war, salvage tools were collected, used spasmodically until they fell to pieces, but were not replaced, although they were stocked by the stores. The most advanced mission stations, which have endeavoured to teach enlightened agricultural techniques with tools, have failed to make much impression. This is partly because the main object has been the economic feeding of school children. Exceptions occur, but are rare. Thus the position is that after a hundred years of European influence subsistence agriculture is still geared to fire, the knife, the axe and the digging stick.

16. It is not necessary to go far to seek the reason for this.

Europeans have established a cash economy, and Solomon Islanders participate in some measure by making copra, gathering shells, storekeeping and working for wages. The only tools required for copra making are a hard pointed stick, a copra knife and an axe. Shell gathering requires a knife and canoe. Unlike other races who participate in the cash economy, by growing sugar cane or cotton, rice or groundnuts, Solomon Islanders do not have to till the soil and therefore no need has been felt for other tools. Climate and nature are prodigal. If plenty of land is available it matters little to the average Solomon Islander that hoeing, digging or ploughing can produce a yam that is six inches longer, or taros that harvest at so many extra pounds weight to the acre. In brief, if the ends are obscure or illogical, and especially if harder work is involved, little point is seen in adopting alternative techniques. The position might alter when the Solomon Islander discovers that he wants to devote greater time to economic production for a cash return.

Location of Cultivation

17. Formerly, residence was closely identified with cultivations. When the land was worked out, residence shifted. As explained in Chapter VII, residence, with a few exceptions, is now permanent. This together with the fact that lines are identified with particular lands which have moderately well-defined boundaries, has contributed towards the semi-sedentary character of subsistence agriculture. But cultivations are still sited at a distance from the place of residence. In some cases considerable daily journeys are involved; in others, cultivators visit their gardens and live in temporary shelters for a week to a month at one time. This is marked in the main islands where population is sparse. Thus in Tikopia or Ugi, most cultivations are scarcely an hour away. But in Ysabel, a visit to the taro gardens might involve a day's journey. Yet again, on Malaita few cultivations can be more than four or five houses away, and most could be reached within an hour or two. The effect of all this is, that the Solomon Islander spends a great deal of time in travelling to and from his cultivations.

18. It can be accounted for partly by ecological factors and partly because of the pattern of land tenure that has evolved. Both are closely inter-related. Ecological factors apply every where. As already said, Solomon Islanders have an apparently wide knowledge of their natural environment, particularly in respect of climate, soils and vegetation. Simply put, they know that taro flourishes in damp heavy soil, generally found some distance inland, while yam thrives in lighter and better drained coastal land or inland hill slopes and preferably on land of which the forest has been undisturbed for a long period. Two different types of soil are therefore required for the two crops. They are seldom within easy distance of one another. Thus, the coastal dweller might travel far inland to grow his taro, while the bush dweller probably goes towards the coast to plant yam. There are other factors which are outside the field of this report. A detailed study might reveal some interesting facts: it may even show that suitable land is often neglected because

the weight of tradition has acted as a conservative force which has in fact prevented effective understanding of the environment.

19. Turning now to the disposition of land, in the Western Solomons, the whole population live on small coral islands or on the coasts. In Marovo and Roviana especially, about half the population makes a canoe journey of varying distances before walking inland. In Choiseul, the move to the coasts has been comparatively recent; in former times the important and wealthy lines occupied what was then regarded as the best land on the central ridges of the island. The poorer people spread out towards either coast. It was these people whom the Missions contacted first. They were the first to leave the hills, and consequently occupied the best coastal lands. The elite, coming down later, found the best land gone but could do nothing about it. The position today is that the first coastal dwellers have little distance to go to their old lands for taro, while the elite have to travel to the centre of the island to plant both yams and taro on former cultivation sites. This situation underlies many of Choiseul's land troubles.

20. Something of both situations is found on Malaita, which has a much denser population. The saltwater people begin their journeys to coastal cultivations with a canoe trip, the bush people, who were late in coming down to the coasts, are involved in lengthy journeys back to their old cultivation sites. A modifying factor is the fish market. The saltwater people catch fish to exchange for tuber crops grown by the bush people. The rate of barter favours the saltwater people. Thus, the saltwater people require only small cultivations, while the bush people, who have to satisfy both the needs of barter and home consumption, require much bigger cultivations.

21. At Ysabel on the other hand, the people of the north western half of the island who did not migrate to Bugotu under pressure of the Rovianas, moved to Kia and allied themselves with their former enemies. They retained title in their old lands. Their descendants, not possessing land at Kia, make long journeys to their former cultivations and are frequently absent for weeks at a time. At Savo, enthusiasm for copra producing has resulted in most of the lower slopes being extensively planted with coconuts. Cultivations have to be made behind the coconut line high on the mountainside. For a small island with rich soil, journeys are lengthy. Throughout the Central Solomons and San Cristobal, matrilineal inheritance and patrilocal residence, have resulted in the children undertaking long journeys to cultivate the lands in which they have inherited primary interests through their mother. Thus they keep their interests "alive". This would not have been possible in former times since fear of enemies would have been a deterrent.

22. In the Reef islands, the subdivision of the land into individual holdings, together with patrilocal residence and inheritance of plots from both the mother and the father, has resulted in some fragmentation. This, together with the geographical nature of

the islands, frequently necessitates lengthy canoe journeys to cultivations. Furthermore, with excessive pressure on the land, people canoe from the main islands to Ndeni to cultivate, while on the tiny outlying island of Nupani, the people divide their cultivating between the islet of Nalonga two miles distant and Tinahula, 25 miles away.

23. Solomon Islanders are becoming more aware of the problem attaching to the location of cultivations and this is particularly apparent on Malaita. The awareness emerges in the conflict of two developing attitudes. On the one hand, land consciousness requires that a man should cultivate the lands in which he holds primary interests, and denies the right to exercise secondary interests acquired through marriage. This limits the amount of land available. On the other hand, the incentive to participate in the cash economy limits the amount of time that can be afforded in cultivating for subsistence purposes. Associated with this is scepticism of travelling miles to plant yams or taro, when sweet potatoes grow quicker, with less effort, in any soil; indeed, some see little point in cultivating at all, when money from copra and shell can buy rice and meat in the stores. It is not irrelevant to this, however, that two of the more successful Solomon Island producers believe that the most economic method of rationing labour is by growing sweet potatoes and grazing cattle. Not only do the latter keep the grass down in the plantation, but they are held to be more economic than buying tinned meat.

24. Thus while many Solomon Islanders are still content to travel great distances to grow subsistence crops, others (who will increase in number) seek to avoid this. This is not only a land tenure problem but an agricultural one.

The Agricultural Calendar

25. All societies differentiate by dialect names, the respective seasons of the year and relate these to specific activities. The most important period for the southern islands is July to September, while August to November is important in the northern islands. In these months the yams are planted. A series of events follow; the appearance of the first shoots marks the time for weeding; next the earth is scraped up around the roots; then follows staking when the vines are trained upwards; finally, when these reach the top of the stakes, they are trained on horizontal stakes or downwards. Eventually, first fruits are sampled and the work of harvesting is carried out between April and August. At the same time, seed is selected for new plantings. Between June and October, the ngali nuts are harvested. Taro is planted all the year round, the green shoots being cut from the root as harvesting takes place, and replanted. Sweet potatoes are also planted at all seasons but mainly just prior to the rains in December and January. They are ready for harvesting between February and May. Thus the period April to October is one of affluence in food crops. It is mainly during these months that ceremonies are held. In Ariari, Malaita, this is the season of the

Houra or mortuary feast, and young men travel from feast to feast. By October most villages are short of food, and revert to sweet potatoes, swamp taro and what can be gathered by hunting, foraging and fishing. October and November are consequently strategic months for labour recruiters.

26. Certain societies, notably Roviana, Vella Lavella and parts of the Shortlands and Choiseul, tend nowadays to plant most staple crops all the year round. The Tongan yam and panna however, is planted from July to September and fruits in April or May. A few individuals throughout the Protectorate also plant all staples the year round but they are rare. It is possible that such techniques could be expanded and developed.

Utilisation of Food

27. Very little need be said about the utilisation of food. Subject to obligations and commitments a man has the right to dispose of all the fruits of his labour. Food crops are disposed of in five principle ways:-

- (a) by normal daily consumption;
- (b) by the provision of ceremonial feasts and the meeting of reciprocal obligations;
- (c) by preservation for future shortages;
- (d) by preservation for replanting;
- (e) by sale, barter, and feeding labour.

28. Crops are mainly gathered as required. The food is prepared for consumption by baking over the fire or in hot stones, in bamboo sections, in pits, or simply by boiling in a cooking pot. Doughlike puddings are made in all islands from different tubers, nuts, bananas and sago. Miss Susan Holmes, of the South Pacific Health Service, published a brief monograph on nutrition in the Protectorate in 1952. It has at least indicated the need for further research which might be revealing. Perhaps the most interesting field is the modification that has taken place in traditional techniques of food preparation, together with alteration in tastes and their consequences under European influences.

29. As regards (b), there is a distinguished collection of books and monographs on the ceremonial provision of feasts, the obligations of kinship, and the sharing of food. Brief references have been made to this subject already. Further studies would be of value to show the extent of the breakdown in reciprocity and the manner in which it is being modified by a cash economy.

30. Preservation methods are limited. Tuber crops are kept in dry airy huts or slung from the rafters of kitchens. In the Reef

islands, and Tikopia, breadfruit is preserved; in the former islands it is baked into hard flakes and hung in baskets in the smoke of cook houses; at Tikopia the pulp is stored in sand pits between layers of certain leaves; a mixture of salt and fresh water is poured over the pulp, which is trampled down and sealed with leaves and stones. Ngali nuts are broken and smoked in bamboo lengths and sealed or else bundled in leaves and smoked. Fish is smoked, and one District Commissioner has achieved considerable success with a type of smoke house used in Scotland for herrings. Puddings are kept for a day or two providing they have been baked tightly in leaves. Except for Tikopia which suffers periodic famine, preservation of food is mainly important for feasts and ultimate sale. Normally, it is not in character for Solomon Islanders to keep food for any length of time. However, recently a tendency has developed among Malaita labourers on plantations to hoard rations to take home.

31. Coming now to (d) tuber crops, principally yams, are preserved as seed in dry huts adjacent to cultivations. Seed is carefully selected.

32. Finally as regards (e), tuber crops are bartered for goods such as tobacco, pigs, primitive money and canoes. Crops are exchanged for other foodstuffs including part-smoked fish in the markets. Adequate supplies of root crops can command a labour force for copra production and other tasks, while limited quantities are transported to Honiara, district stations and plantations for sale. Mission hospitals usually require a few tubers for an injection or medical attention. Taro perishes within ten days, and is not favoured for sale or barter except if disposed soon after it is harvested. European vegetables usually command a ready sale but perish easily. Rice is sold in small quantities but the major problem is hulling. On Malaita, efforts are being made to purchase hullers; in one case, the capacities of the type envisaged tend to be out of proportion to the quantities of paddy available. Throughout all these activities local principles of supply and demand apply.

Customary Prohibition

33. References have already been made to customary prohibition in respect of reefs and economic trees. The application of customary prohibition on cultivations, and the respect which is given to it, is a significant element of ownership and possession. The basis of this lies deep in pagan custom. In former times, the belief was held that since land was generally plentiful and no one would cultivate poor land, good yields both in quantity and quality were due to the use of superior magic or the intervention of a powerful ancestral spirit. Conversely, the failure of a cultivation was interpreted to be the result of malignant sorcery by an enemy. For that reason, the cultivator sought to exclude trespassers from his gardens by a variety of protective devices or tabu signs. Sometimes these took the form of an elaborate fence; as often as not it was simply a pair of crossed stocks, a bundle of certain leaves hung on a tree, or a shrub broken across the garden entrance.

34. Today, although pagans, and indeed many Christians, suspect their enemies of acts of sorcery, customary prohibition also implies fear of depredation. This is said to have been rare in pagan times. Rights of way usually skirt the gardens at a distance, and a stranger found loitering in or near a cultivation can only be suspected of troublesome devices -- the theft of food, or produce, the seduction of a wife or daughter, the planting of seed without permission, the destruction of growing crops, or simply establishing a claim to the land. And so prohibition marks are resorted to - often in the form of an elaborate painted notice, the roughly carved Tabu on a tree, and of course many of the traditional devices. A Solomon Islander who can prove to the courts that he or his cultivations have suffered a customary tort may be awarded primitive money in compensation. Principally, such claims are based on theft, damage to crops, or interference with women. The cultivations of pagans are forbidden to persons ritually unclean - menstruating women or women with unblackened teeth. (In San Cristobal, sexual intercourse is forbidden in a cultivation which has just started to grow; however, in many places, gardens are the most popular place for intercourse). All societies use prohibitions for material reasons; it is principally in Malaita, Guadalcanar, Ysabel and San Cristobal that prohibitions are for supernatural reasons.

35. On Guadalcanar, particularly in the Sugu/Visale area, it is customary for a line to place a customary prohibition on the half completed cultivation of a member who has died. Interference with the prohibition will result in a claim for compensation. It is said to be in memory of the deceased, but it is possible that it was also directed against the interference with the dead man's spirit. The prohibition is lifted by the provision of a feast by the line; this may not occur for a generation or even more. The custom is found occasionally on Malaita and elsewhere but is dying out.

Magico-Religious Practices and Beliefs

36. In the previous section a brief reference was made to the means which Solomon Islanders adopt to prevent malignant sorcerers from depredating their cultivations. Despite sixty years or so of intensive mission influence which has taught the efficacy of prayers for rain and good crops and the importance of giving thanks at harvest festivals, and although seeds are blessed and first fruits are offered in the chancels of certain churches, Solomon Islanders still pursue a great many ritual practices of a magico/religious nature, to ensure success in their cultivating. While these have a good deal more significance than the scarcely understood relics of pagan practice still followed by the peasant farmers of Western Europe, they will doubtless in time evolve into much the same form.

37. The basis of present practices and beliefs is found in the pagan concept that all phenomena are governed by the spirits of the dead which must be propitiated if their protection and help are

to be forthcoming. Conversely, they must not be offended. Thus, in the Western Solomons, it was related to the Commission that in the early days, fear of reprisals by the land spirits limited the sale of land to Europeans for cash. Informants said it was "safer" always to accept trade goods rather than European money, since the spirits would be satisfied with the former, but the latter was too alien. For that reason, purchase prices paid in gold were sometimes kept intact for years afterwards and in a few cases are said to exist still. In San Cristobal, many men were genuinely reluctant to relate genealogies to particular areas of land for fear that the spirits would be offended. This was particularly the case if the land had been fought over. The naming of the victors might result in vengeance by spirits of the former enemies.

38. All present day practices and beliefs are kept closely secret, and the Commission found difficulty in getting informants to speak freely about them, especially if others were listening. Pagans feared the efficacy of the practice being lost in the telling, or someone else getting something for nothing, or the spirits being offended. Christians, on the other hand, were reluctant to discuss such matters for the same reasons, but also partly from shame and fear that the missionaries or the local teacher would get to hear about it. Most Christians reacted initially with horror that they could ever be guilty of such beliefs and described them as "bushmen's" practices. When genuine interest was explained, they were more forthcoming.

39. As far as can be seen, knowledge and practice are confined to men, though cases might well be found of witches being versed in garden magic. Formulae, incantations and ritual are handed down from father to son. Individuals who inherited none, or have forgotten them, will employ professional sorcerers and pay primitive money for their trouble. Alternatively, formulae are bought and sold. The Commission paid ten shillings to an ancient pagan of Birao for a guaranteed yam formula. The old gentleman explained that he would have given it for nothing, but his ancestral spirits might spoil his own crops if the compensation was not paid. Sophisticated persons who scorn such practices are in turn scorned when their crops fail.

40. There is a wide variety of ritual practised throughout the Protectorate, but generally it relates to the ceremonial planting of the first yam seed and the harvesting of first fruits. At Ndeni, red feather money and red bark cloth are still occasionally placed on the edge of a new garden. In the Reef islands, incantations are recited at the commencement of planting to nullify the malignant sorcery of a secret enemy. In Savo and Florida, sprigs of the ginger plant are placed in the ground at different points of a new cultivation; pieces of stick from a tree believed to have magical properties are pushed through the seed when it is planted. When yams or panna are staked, a special twine is used to stimulate growth. In Guadalcanar, unfavourable signs such as the presence of a snake in the undergrowth will lead to the postponement of

planting. The chewing and spitting out of the juice of certain fruits on seed yams aid growth and lead to the demise of insects and pests.

41. In Arosi, San Cristobal, it is said that when a land authority, rich in power and property, is about to die, a shooting star is seen in the evening to cross the sky and fall into the land of his line. By this it is interpreted that the spirits of the ancestors are warning the land authority that he should put his affairs in order and dispose his property. This sign also represents to the living that the spirits still retain their interest in the land; it is an act of ownership. A similar belief was found by Douglas L. Oliver² in Southern Bougainville.

42. The following is an account of a cycle of ritual, of which parts are still used in Bauro, San Cristobal and which is typical of magico/religious practice generally.

- (a) The land is selected.
- (b) The sorcerer utters an incantation to the spirits, spits on the ground, cuts a little of the undergrowth and throws a handful of soil out of the plot. This removes any evil which may be lurking in consequence of someone having evacuated or had sexual intercourse in the area. The land is then cleared of the undergrowth.
- (c) On a chosen day the sorcerer supplicates the ghosts of the ancestors and the spirits of the land to aid the yams to grow well. Five seed yams are charmed, one is planted at each corner and one in the centre. These are offerings.
- (d) The garden is then planted and a tooth of the dead ancestor is placed in a fallen tree to guard the cultivation.
- (e) Eight months later when the yams are thought to be ready, the sorcerer harvests the first fruits for offerings to the spirits. Two used to be hung on a skull in the sacred house of the line, while a pudding made from the rest was burnt underneath.
- (f) When the day for actual harvesting comes, only the sorcerer and head of the line enters the cultivation and they dig two or three yams. The time for this is chosen in relation to the high tide or full moon.
- (g) On the following days, the women are allowed to enter the cultivation and harvest the crop.

2. Douglas L. Oliver, "Human Relations and Language in a Papuan-speaking tribe of Southern Bougainville, Solomon Islands", Papers of the Peabody Museum of American Archaeology and Ethnology, Harvard University, Cambridge, Mass. 1949.

43. Magico/religious beliefs and practices have a certain significance in the land tenure system, since they indicate that Solomon Islanders believe that the productive value of the land depends not only on its innate fertility as modified by the labour expended on it, but also on those qualities which can be controlled by supernatural means. Such a belief must act as a conservative force in the development of a modern land and agricultural policy. It should not however be treated over-seriously. As European values become more widely accepted, magico/religious practices will pass into the realm of folklore. Even sorcery against the property of others should not be taken too seriously. Legislation declaring sorcery to be a criminal offence can be dangerous and difficult to enforce, since the evidence must be based on hearsay. Apart from this, it serves merely to perpetuate, stimulate and encourage such practices by convincing the people that sorcery has achieved the status of a Government recognised social institution. This could prove unfortunate.

Cultivation Methods and Techniques

44. Mr. Barrau has traced the evolution of Melanesian subsistence agriculture through six stages, as follows:-

- Foraging.
- Shifting agriculture
- Agriculture with bush fallowing rotation
- Semi-sedentary agriculture with fallow.
- Semi-sedentary agriculture with artificial fertilising of the soil
- Sedentary agriculture with rotation and manuring

It is convenient to relate Solomon Island methods and techniques to these six stages.

45. All societies engage in foraging to some extent. It predominates among the more primitive bush dwellers such as the Wainoni and Ariari people who live mainly in temporary settlements. It is found among the people of the artificial islands of Lau and Langa Langa who live principally on fish and are not great cultivators. It is also practised extensively by societies which for various reasons have committed themselves to a cash economy. The Duff Islanders make considerable sums from trochus shell. A high percentage of their foodstuffs is purchased from the two stores at Taumako village. These are kept well stocked by the European proprietors. From time to time supplies fail, and the people resort to foraging for wild yams and wild swamp taro. They catch considerable quantities of fish, but the time spent on formal agriculture has steadily diminished. The same applies in a much lesser degree to the people of Roviana who derive considerable profits from copra making. Foraging was also resorted to temporarily by the peoples of the Russell Islands and Fauro after the war, when their large stocks of salvaged wartime foodstuffs ran out. Subsequently cultivations were re-established. The Ariari pagans forage when the Houra season draws to

a close, for food runs out and the new crops are not yet ready.

46. The second stage, shifting agriculture, formerly widespread, is today practised mainly by the few bush people living far inland in the hilly rain forests of Guadalcanar, southern Ysabel, Malaita and San Cristobal. In such places, tenure concepts have not crystallised as they have in the foothills and coasts, and land is relatively plentiful. The richest soil, i.e. land with the heaviest forest, is normally chosen; the lower undergrowth is cleared and the vegetation is piled against large trees and set on fire. The trees then die slowly and eventually fall. Yams are planted with the help of the digging stick, while odd clumps of subsidiary crops are planted on the edge of the clearing and even among the staple. An exception occurs in Birao and Malango/Vulolo, Guadalcanar, where the lower undergrowth is cleared and piled to the edge. The yam seeds are planted under a canopy of trees, and when growth begins are interplanted with sugar cane, bananas and cabbage. Weeding continues and a month or so later the trees are felled over the growing crops. The yam shoots intertwine among the branches. When harvesting is completed, the land is left to fallow, afforestation proceeds and a new site is selected for next year's planting.

47. Most Solomon Islands agriculture however, is divided between the third and fourth stages. Cultivation by bush fallow rotation is found mainly on the coasts and foothills of the larger islands such as Guadalcanar, Florida, Malaita, San Cristobal, Ysabel and parts of New Georgia and Choiseul. It is governed largely by permanent settlement and firmly developed tenure concepts. Cultivation proceeds year by year on an advancing plot basis. The land is cleared, the debris is burnt and the trees are reduced by burning or felling by axe. Each cultivation has a staple crop, either yams, panna, taro or sweet potato. A wide variety of subsidiary crops, particularly bananas and cassava, are interplanted. As harvesting proceeds, the next plot is cleared, and year by year the cultivations succeed each other across the land; it follows the direction of the boundaries of the land over which interests are held. In Florida, it is usual in the second year for yams or panna to be replanted and in the third year, sweet potatoes are grown. Thereafter the land is left to fallow. In San Cristobal, suitable coastal lands are planted in the first year with yams and panna, in the second year with sweet potatoes which at the same time are interplanted with coconuts. In all places the tendency is to plant a staple crop the first year and a subsidiary, usually sweet potatoes, in the second year. Taro is replanted as harvesting occurs, the same plot being used for two to three years. The period of fallow rotation is between six and 15 years depending on the availability of land.

48. Semi-sedentary agriculture with fallow is found in coastal areas and on small islands where land may be relatively short, such as Santa Ana, Savo, or the Reefs or where considerable time is devoted to copra making or shell gathering, such as at Roviana and Vella Lavella. The techniques are the same - clear, burn and plant. The fallow period is two to five years. There is a greater variety

of crops in each garden. In Santa Ana, the Reefs and Savo, weeding is more extensive and the soil is heaped up in mounds about each plant. In Savo, each plot is planted with yams twice in one year and then left to fallow. In the Reefs and Santa Ana, cassava usually follows the yams, after which fallow occurs. In Roviana, many people have given up planting yams or taro and merely grow sweet potatoes in the same plot, three and four times in succession before the plot is left to fallow.

49. Semi-sedentary agriculture with artificial fertilising of the soil by composting and irrigation is rare. In the case of composting it is confined to the Gilbertese at Gizo, who have brought with them the techniques used in their home islands for growing Babai (a form of taro) in pits, and to those few individuals who have absorbed European techniques. In the case of irrigation, some of the hill people of Guadalcanar site their taro gardens to receive a steady but controlled form of natural irrigation, while at Tikopia and Anuda, where the land is cultivated intensively, and the relationship of dead vegetation to fertility is appreciated, taro gardens are sometimes watered by betel bark aqueducts.

50. Except in the case of boarding schools in which the children grow a proportion of the food consumed, no examples of sedentary agriculture with rotation and manuring have been seen. One extensive cocoa plantation on Malaita sited on rolling hills has been contoured with rotting tree trunks and dead vegetation on the suggestion of officers of the Agricultural Department.

Land Cultivated

51. During the course of the Commission's field work, 873 cultivations situated in the Santa Cruz group, San Cristobal, Guadalcanar, Florida, Savo, the Russells, Ysabel, Marovo, Vella Lavella and the Shortlands were measured. These cultivations, totalling 973.6 acres, were owned by 505 families numbering 2,404 individuals, or over 2 per cent of the population. The average area per family was found to be one and nine tenth acres, the average plot a fraction below one and one tenth acre, and the average area per capita was two fifths of an acre.

52. The average per capita is higher than Mr. Barrau's³ figure of one quarter of an acre for the whole of Melanesia. This is perhaps accounted for by the following factors:-

- (a) All the cultivations measured were in coastal areas not more than two hours walking distance from the settlement and where the fallow period varied from two to 15 years. It is therefore possible that the soil may have been generally less fertile.

3. J. Barrau, "Subsistence Agriculture in Melanesia", South Pacific Commission, Noumea, 1955. p.115.

- (b) The cultivations were measured to the extreme edge of the clearings.
- (c) Groves of bananas were included.
- (d) When the majority of measurements were taken, old gardens were still being harvested, and new ones were being prepared. All were included.

53. With a population of 106,309, it is estimated that the area at present in cultivation for food production is 42,524 acres. But subsistence agriculture is based on bush fallow. Allowing a generous period of 15 years for rotation, it is estimated that with their present techniques, Solomon Islanders require 637,860 acres or 9 per cent of the total area of unalienated land for the continuation of subsistence cultivations. Assuming that copra production represents one tenth of a ton to the acre - the remaining nuts being neglected or consumed for food - the area under coconuts might be in the region of 80,000 acres. Allowing a further 20,000 acres for trees not in bearing (a generous figure) it could be said that, roughly, Solomon Islanders cultivate 10 per cent of the land available to them. While a large proportion of the balance will be unfit for cultivation by local techniques, it will readily be appreciated that the area of uncultivated land is very considerable indeed.

Land Welfare

54. Solomon Islanders are aware that the fertility of the soil is restored by resting it. They know that rotting vegetation assists in this. Some realise that manual working of the soil helps to restore fertility, but few practice such techniques apart from occasional weeding and mounding. Most Solomon Islanders know, however, that soil is easily lost, and for this reason the roots of felled trees are left in the ground to bind the soil together. While consciousness of the dangers of erosion varies from place to place and with geographical circumstances, it is generally limited.

55. In Birao and the central areas of Guadalcanar where the undergrowth is cleared, but not burnt, and larger trees are felled when the young plants start to shoot, it was said that the leaves and branches broke the impact of heavy rain and the soil was not lost down the steep hill slopes. On Savo, soil erosion was seen on the steep slopes of cultivations sited above the coconut groves. Fast growing bamboo clumps had been planted to stop the erosion. At To'obaita, Malaita, as stated in Chapter VIII, the real problem has only recently been appreciated. It is said that the axe and the knife have cleared all the primary forest. To'obaita is a high, steep ridge. When the rains come, the soil is washed into the river. "Soon", says the intelligent To'obaitan, "we will have no soil left for our gardens." But reasoning has not yet advanced to the stage where it seeks help or diagnoses the remedy.

56. To the air traveller a soil conservation problem could

scarcely exist. The climate is prodigal of rainfall; the soil seems rich and supports dense tropical jungle. Clearings and cultivations are isolated specks in the sea of dark green. It is true that grasslands exist, but they appear so permanent. Only a forester perhaps can assess the extent of secondary growth which betokens centuries of shifting cultivation. Mr. F.S. Walker in 1948, said that secondary growth "is almost entirely the result of shifting cultivation or 'bush fallow' agriculture, a form that is practised throughout the Protectorate at the present time, and involves, or has involved, most of the fertile land." But from the air, the coasts of North Malaita present a spectacular contrast to the rest of the Protectorate. The valleys and hillsides appear as a patchwork quilt of cultivation and rending through the picture are the brown scars of erosion and deforestation.

57. Mr. Walker suggests that mankind is at least responsible for the perpetuation of the grasslands of Guadalcanar, and the accounts of a few people confirm this view. Elderly men claim to be able to point to hills where forest stood once and grasslands flourish now. Records in connection with projected land transactions in the early part of the century hint at many more settlements than are seen today. It is conceivable that the grasslands which certainly seem to be perpetuated by the fires of the dry season, may be extending themselves.

58. To the layman, the evidence in favour of a need for land and soil conservation is limited. Most Solomon Islanders are conscious of the inter-relationship between agriculture techniques and the loss of soil, and a few are concerned about it. A forester has drawn attention to the extent of secondary growth and this is confirmable from the air in North Malaita. Finally, not only might man be responsible for perpetuating the grasslands, but he may also be extending them to the hills.

59. Apart from this, the development of the tenure system, together with the evolution of subsistence agriculture might create a more tangible problem in the future. Settlements have become permanent and land boundaries have been frozen. The consequence is that shifting agriculture and agriculture with bush fallowing rotation are being replaced by semi-sedentary agriculture. This is not accompanied by manual fallowing, except for weeding. Bush fallow with a 20 years rotation is being replaced with a five year and less fallow period. The soil remains unworked except for planting and harvesting. With a conceivable overall population rise of 10 per cent in the course of the next generation or so, it is possible that in settled coastal areas, deforestation accompanied by considerable soil erosion might become more apparent.

60. In these circumstances it seems desirable that any natural resources legislation which emerges from the findings of this Commission, should include sections providing Government with powers to control the use of land and soil. Such legislation is normally found in the statute books of most modern states. It seems convenient

to provide it now, even though no immediate problem exists, rather than wait until the damage is done and legislative measures are too late. The legislation needs to be simple, but should be such that conservation areas can be proclaimed and the Agricultural Department provided with powers to effect proper control. It might also include a section providing for penalties for bad land usage.

DISPUTES

In pre-protection times, disputes in land are said to have been rare. Older informants stated that no one interfered with another's interests for fear of sorcerers, or the vengeance of dead ancestors to whom it was believed the land ultimately belonged. If disputes did occur they were settled by compensation or war between contesting groups. In the process of settlement, chiefs, whether men rich in money or pigs, leaders of head hunting expeditions, or just plain organizers, hereditary or otherwise, singly and collectively played a considerable part.

Present Nature and Incidence of Land Disputes

2. The remarks in this section relate to all types of land, including reefs, swamps and all resources and interests thereon or related thereto.

3. The main circumstances which make for disputes in land are, firstly, competition for coastal lands; secondly, the geographical variations of the country; and thirdly, the past and present changes and confusions in native custom. With the exception of disputes in respect of ownership of odd ngali nut trees, no cases have come to notice involving lands which could not be categorised as coastal lands. Integral in this is the fact that a proportion of the best coastal lands, particularly those adjacent to good anchorages and harbours, have been alienated to Europeans. Examples of this include two thirds of the northern coastline of Guadalcanar, three quarters of the western coastline of Koio, Malaita, both sides of Hawthorn sound and the Diamond Narrows, Roviana. Turning to the second factor, geographical variation, an attempt was made in Chapter I to emphasise this. To the European most land in the Solomons looks the same - steep, rough and thickly covered in jungle. But the greater proportion cannot be worked within the limits of the people's agricultural techniques; this may take them two miles in one direction to plant yams and five miles in another to grow taro. But life for the Solomon Islander is fuller than it used to be; new demands are made on his time and energies; the productive use of certain types of land brings a good cash return; and today, in consequence, he discriminates in the use of land. Finally, as regards the third factor, sufficient has already been said to show the extent of social change as it affects the tenure system, the new ideas and needs that have been developed and the general direction in which these are moving. Although 60 years ago, mistakes perhaps were made because native claims to individual ownership were believed, the time is fast approaching when similar mistakes will be made, because they are not believed.

4. While these three factors provide the tenurial background, strains within the social organisation, that is, normal human failings, usually precipitate land disputes. Quarrels within the line, land group and family, spring from the breakdown or rejection of reciprocal obligations and co-operation based on social relationships; these set in train a sequence of jealousies, spites and grudges, all overlaid by personal ambition and the thirst for money. Many cases occur in which a claimant frankly admits that the action is brought "from jealous", as the pidgin English expression aptly puts it. In pre-protection times, men suffering from such feelings resorted to supernatural methods of reducing an opponent. While sorcery still persists, knowledge is now becoming limited; apart from this, more certain discomfort can be brought to an enemy through the courts. The law lends itself to all this, because obviously it concerns itself with the facts of the dispute, rather than the social or human setting.

5. All disputes can be categorised under one or more of 18 main headings depending upon the particular issue on which the dispute turns. It will be sufficient to list these, since all have been referred to earlier.

- (i) Doubtful and impermanent boundaries.
- (ii) Disturbance of sacred places.
- (iii) Distortion of genealogies.
- (iv) Conversion of secondary interests to primary interests.
- (v) Separation of primary interests in land and economic trees.
- (vi) Breakdown to individual tenure.
- (vii) Transfer of interests.
- (viii) Competition for coastal lands (deliberate and implied).
- (ix) Exclusive possession of reefs.
- (x) Denial of customary title acquired by means which today would be illegal.
- (xi) Religious sectionalism.
- (xii) Ejection from village lands.
- (xiii) Status of adoptees, strangers, absentees and women.
- (xiv) Disputes both prior and subsequent to alienation.
- (xv) Resurrection of disputes already settled. (This is indirectly due to unsatisfactory recording of decisions in past disputes.)

- (xvi) Refusal to accept arbitration.
- (xvii) The conversion of administrative interests in group held land to proprietary interests by land authorities.
- (xviii) Political interference.

During the Commission's enquiries, innumerable disputes have been examined - recorded and unrecorded - including past, pending and incipient. The list broadly classifies those which have been examined. There may be others, but these are the main ones. Each dispute has one of these as a central theme, though others may be found which are subsidiary. Of the disputes examined, the greater proportion related to transfer of interests and competition for coastal lands. The relevant sections make clear the complexity of these problems.

6. The Commission has found it impossible to produce cogent and meaningful figures which will reflect the true incidence of disputes. There are several reasons for this. Firstly, the Commission's enquiries have been sprawled out over four years; secondly, district administration staff has suffered from constant and persistent staffing difficulties which have affected the maintenance of records; thirdly, administrative policy has been subject to extensive revision and overhaul since the war; fourthly, native courts have only recently undertaken the hearing of land disputes and their records are either sketchy or non-existent (many of the present courts were not established in 1953); and finally, as will be seen in the next section, the processes of settlement are confused.

7. In the Western District, disputes occur most frequently in Choiseul, an island long noted for the intractability of the inhabitants in land matters. Transfer of interests and competition for coastal lands are the most frequent causes. It is estimated, that over thirty major disputes were settled by deputy commissioners between 1946 and 1953 and in the latter year, seven were pending. The decisions in a great number of minor disputes settled by headmen or the Native Courts are not acceptable to the litigants. There is a stubborn tendency to re-open disputes. Disputes are rarer in the Shortlands, Vella Lavella and the Marovo, but in the latter area religious sectionalism is the usual cause. Disputes are common in Roviana, the Native Court having dealt with an average of four or five a year. Decisions of the Native Court are seldom accepted.

8. Coming now to the Central District, the Ysabel Native Court started to hear disputes in 1953, in which year six were heard. Two of these were subsequently the subject of appeal to the District Commissioner. Florida and Savo each produce two or three a year. On Guadalcanar, with the exception of Marau, Talise and Sugu/Visale, disputes are surprisingly rare. Few disputes occur in the Russell Islands.

9. In the Eastern Solomons odd disputes occur, but are confined mainly to the Reef islands and Santa Ana, both heavily populated islands, and both with a tradition of disputing which in the former islands frequently involved bloodshed. At the Reefs, the District Headman arbitrated in ten cases in 1955 and six up to October, 1956. At Tikopia, disputes are common in times of famine, settlement being carried out by the four chiefs.

10. On Malaita, the records of 88 disputes dealt with by Deputy Commissioners between 1931 and 1943 have been located. A large number are missing and this does not include arbitrations held by administrative officers and headmen. Since the post-war political troubles ended, the number of disputes submitted to Deputy Commissioners has steadily increased. About ten were pending at the end of 1956. Native Courts have only just started hearing disputes, and figures are not available.

11. In summary, there is a relatively high incidence of disputes in Choiseul, Malaita, the Reef Islands and Santa Ana. Elsewhere there are few. Many are allowed to simmer from year to year - perhaps more than 40 are pending at any one time. In addition, a great many disputes, the number of which cannot be guessed, are settled informally by headmen and land authorities. The Commission does not consider that the position in any way warrants the appointment of a Commissioner with special powers to clear up outstanding disputes. Later in this chapter arrangements will be proposed which it is hoped will improve the present position and facilitate settlement. However, a necessity exists for a close administrative check to be kept on the exact position in respect of land disputes. It is therefore recommended that in conjunction with quarterly reports, District Commissioners should be required to submit a return in the following form:-

Number settled by Deputy Comm- issioner	Number pending at end of quarter	Number settled by Native Courts	Number pending with Native Courts	Number known to be settled by headmen or oth- erwise by in- formal arbit- ration
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It does not seem necessary, at this stage, to insist on the provision of details regarding each case; District Commissioners could, however, be invited to include a paragraph in the quarterly report on native land affairs generally. In this, reference could be made to the principles involved in important disputes. Information on the subject can then be kept up to date.

The Process of Settlement

12. Land disputes are settled in a diversity of ways and this has led to much confusion. The following methods are current or

may be adopted:-

- (a) By the Judicial Commissioner by formal arbitration and reconciliation under section 34 of the Pacific Order in Council, 1893.

This process has rarely been used since the war. While it has a certain adaptability, it is one which is not understood by Solomon Islanders.

- (b) By the Judicial Commissioner within his Civil Jurisdiction.

Only three cases have been heard by the Judicial Commissioners since the war, and two of these involved a European defendant. District Commissioners have expressed a wish that the Judicial Commissioner should hear more land cases between Solomon Islanders, especially where important principles of custom are involved.

- (c) By Deputy Commissioners by formal arbitration and reconciliation under section 34 of the Pacific Order in Council 1893.

Although immediately following the war, a number of cases were heard by this method, lack of direction on the precise procedure to be followed discourages the use of the process and makes for inconsistency of method. In any case, as previously stated, Solomon Islanders dislike arbitration since it is not understood. Invariably the decisions reached in the Arbitration are unsupported by agreements signed by both parties.

- (d) By Deputy Commissioners within their Civil Jurisdiction.

This process accounts for the greater proportion of cases settled. No binding directive has ever been issued to Deputy Commissioners on the procedure that should be followed in hearing land disputes. The result is confusion and diversity of method. In some cases, decisions in rem have been given, and these seem to have doubtful validity. Judgments rarely show any understanding of the principles of custom involved, and in some instances no judgments are delivered at all. There is also a black and white approach in arriving at findings. Although the attitude of Solomon Islanders towards land tenure encourages this, the entire possession and interest in the disputed land is often simply awarded to one side or the other. Some Deputy Commissioners are frankly reluctant to assume the responsibility for hearing land disputes. This stems not so much from a belief that they are difficult, though that does exist, as sheer inability to devote the time, which in some cases involves many days work. Exceptions occur, but are confined to odd Deputy Commissioners who have read law or have developed an interest in land tenure.

- (e) By District Commissioners and District Officers in their administrative capacities with or without the issue of formal findings.

Such cases are common, and amount to little more than an effort either to arrange settlement out of court or to discover the scope of the case before deciding whether or not it justifies a formal hearing. Too often, Solomon Islanders regard such enquiries as de facto Court hearings, especially if for one reason or another the formal hearing never eventuates. In other instances administrative officers proceed all the way with the enquiry and issue a verbal order, which may or may not be entered in a Native Affairs Register. This inevitably results in the case being brought up again a year or so later to another District Officer. The new officer is then embarrassed by having to decide whether or not to override his predecessor's "order". The whole process is capricious, unsatisfactory and leads to injustice.

- (f) By Native Courts within their Civil Jurisdiction providing the value of the land involved does not exceed £100.

Native Courts have only recently begun to hear formal land cases and except in the case of Malaita, have received little instruction on how to proceed. The following is an extract from a publication "Native Courts and how they work" issued by the District Commissioner, Malaita, in 1955.

- "LAND. 1. A native court can judge land cases when the case has not been heard before in a Court and where the value of the land is not more than £100 in value.
2. Usually the chief of a line will come to the President and say that someone of another line is using his ground without his permission for example, for a store, to plant coconuts, cocoa, to take timber etc. When he has told the man to stop he claimed that the land belonged to his own line, or that he had the right to use the ground.
3. The first thing to do is to walk round the spearlines. The President and two justices, the clerk, and the two men rowing about the ground should do this together. The clerk should draw a map of the ground and the beuambu or burial places known to each side should be marked on the map.
4. If the ground is not too big and the Court thinks it is less than £100 in value, it should fix a day for the Court and proceed with the case. If it is a big piece of land, the Court should make an inquiry about the case and then report to the D.C. or D.O. who will take the case.
5. Each side should be asked what witnesses it wants to bring and what kind of evidence the witness will give. Allow each side to bring as many witnesses as are necessary to prove each point, but do not encourage contestants to heap up large numbers of witnesses in the

belief that their case will be the stronger if they produce a great number.

6. These are some of the points you should look for in a land case:
 - (a) What was the name of the first man to come to the piece of land?
 - (b) Is he buried in the ground; if so, where? Does one side only know this?
 - (c) Can one side produce the generation coming down from this man?
 - (d) Who was the last fatambu or priest to make sacrifices at the beu ambu? What line did he belong to?
 - (e) What are the boundaries of the land? Is it one piece of land? Is there one big beu ambu and several smaller ones under the big one?
 - (f) Who harvested the ngali nuts: what people are allowed to plant coconuts, sau (sago palm) and make gardens in the land?
 - (g) If one of the men has come from a woman of the original line does he have the right to use the land without permission of the line-chief owning the land?
 - (h) Has the land ever been sold or given as a present for fighting or protecting someone?
 - (i) Even if one man is likely to be the owner of the ground has he allowed the other contestant to settle in his land for a long time? If twenty years or more it would be very hard to move him.
7. Pay more attention to the old men than young ones. Do not hesitate to call any old man to give evidence who may be able to help the Court, even if neither side calls him as a witness.
8. Take time to give a decision. It is alright for the Court to hear all the witnesses and say it will give the judgment on a later day. The President and Justices can discuss the case together in private before giving the decision. You may give the land to one side or the other: you may divide the land between the two: you may say that one man is the true owner but that the other has the right to stay on the land or make gardens on it.

9. When any land case is finished the Clerk should draw a map and write down the names of the two contestants, their villages, the judgment of the Court, the place and date of the judgment, and send this to the District Commissioner together with the man who has won the case. The judgment must be registered by writing in a Government Register and the winner of the case must pay a little money to have this done."

This is a most useful approach, and should be followed in other districts to maintain consistency of policy. Its limitations are that no indication is given as to how the land is to be valued or how the evidence should be evaluated. It emphasises ownership of land but not interests in land. The failure of the native courts in land disputes is due to the fact that the unsuccessful litigant refuses to accept the Court's judgment. For this reason, native courts are generally reluctant to hear land disputes.

- (g) By District Headmen, chiefs, elders and land authorities arbitrating informally and without the issue of formal findings.

These constitute a form of settlement out of Court and as in (e) are often a preliminary to a Court hearing. A surprising number of such cases are in fact settled successfully. This is because procedure is informal, discussion invariably is in local dialect, and since most people know that the agreement reached is not binding, the atmosphere, curiously enough, is one of greater confidence. The danger is, however, that these arbitrations tend to develop into fully fledged "custom" courts, similar to those established illegally during the political troubles. Such "custom" courts almost invariably degenerate into vicious and oppressive influences.

13. All decisions of the native courts are subject to revision by and appeal to the District Commissioner. Judgments of the Judicial Commissioner and Deputy Commissioners are subject to appeal to the Fiji Court of Appeal. In land disputes, use is made of the former but not of the latter.

14. Solomon Islanders in their approach to land disputes have contributed to the chaos. They have developed a fixed belief that merely by reporting to district officers or headmen that land has been "stolen", their responsibilities, apart from tirading in court against their opponents, are ended. They are aggrieved when asked for those elementary details necessary for starting a civil action. They resent any questions which reflect on the soundness of their case. They are dilatory about ensuring the attendance of material witnesses. They believe that the Government will secure them their land back without effort on their part. They seldom acknowledge defeat, and the system unfortunately encourages this attitude. Finally, regardless of how carefully the position is explained, they find it impossible to understand that the court verdict in a dispute is only a judgment in personam and not a decision in rem. This stems from ill-advised practices in the past.

15. The following are the results of the confusion:-

- (a) delays in settlement of cases sometimes runs into months and years;
- (b) rehearings which are numerous, bring the law into disrepute and convince Solomon Islanders that settled disputes can be re-opened as soon as administrative officers change;
- (c) procedure is cumbersome and inconsistent;
- (d) minutes of proceedings are sketchily maintained, while the records are frequently lost;
- (e) judgments establishing fundamental principles which are applicable elsewhere, regardless of differences in custom, are not circulated. They are available only in the district in which the case is heard - if they are not lost altogether;
- (f) the state of affairs is time-consuming and prejudicial to development;
- (g) it makes for general insecurity of land tenure.

16. The Commission is of the opinion that this state of affairs should be remedied immediately. There are four alternatives. The first is that a Native Land Court should be set up, presided over by a Judge specially appointed to hear land disputes only. This has been widely advocated to the Commission. It is considered that neither the economy of the Protectorate, nor the number of cases requiring settlement justifies this. The Commission can make out no case whatsoever for even serious consideration to be given to it.

17. The second alternative is that all land disputes not involving Europeans should be heard by the Native Courts. Having regard to the present state of their development, and particularly the low standard of record keeping, and bearing in mind that Solomon Islanders generally have little confidence in the capacity of native courts to hear land cases, little commends such a proposal at this stage.

18. The third alternative is to overhaul the present system by means of judicial and administrative directive. This could be done along the following lines:-

- (i) By confining the hearing of disputes to processes (b), (d), (f) and (g) as outlined in paragraph 12.
- (ii) By inviting the Judicial Commissioner to hear a greater proportion of cases involving important principles of custom, in order that judicial capital may be built up.

- (iii) By issue of a detailed directive by the Judicial Commissioner to Deputy Commissioners setting out the procedure and rules to be followed in the hearing of disputes by process (d).
- (iv) By the issue of a directive standardising records.
- (v) By the circulation of Deputy Commissioners' judgments through the Judicial Commissioner.
- (vi) By the preparation and circulation of a standard set of instructions to all native courts on procedure in land disputes and methods of evaluating evidence.
- (vii) By suggesting to the courts that the precise nature of rights of appeal should be made clearer to litigants.

While such an approach would doubtless go far to meet present needs and requirements, it is considered that reliance on directives has many inherent disadvantages, not the least of which is that it gives no real recognition to the general problem in native land.

19. The fourth alternative, and the one which the Commission commends, is to set up by Order in Council or Regulation (whichever is necessary) a Native Land Court to consist of the Judicial Commissioner, Deputy Commissioners and members of the Native Courts. When sitting, the court would consist of the Judicial Commissioner or a Deputy Commissioner, who would be president, together with two members of the Native Court of the sub-district in which the disputed land is situated. The principal duty of the two Solomon-Island members of the court would be to question the witnesses. The President of the court would be required to consult them before judgment was entered. He would record dissenting opinions but would not be bound by them. Appeal would lie to the Fiji Court of Appeal within 28 days by leave of the court. The court would maintain a central register of judgments, and important judgments should be circulated by direction of the Judicial Commissioner. Since the staffing position in the Judicial and Legal Department has recently improved and the number of cases normally heard by the Judicial Commissioner in the High Commissioner's Court is not great, it is considered that until judicial capital is built up, the Judicial Commissioner should be invited to hear many of the more important cases. The Court would, of course, hear any disputes between Solomon Islanders and Europeans in respect of alienated land.

20. It is most important that the Native Land Court should function on the basis of clearly defined rules. While the precise nature of these rules will depend upon the ultimate scope of the Court's approach to its work, the following appear necessary for inclusion:-

- (1) An application for investigation of a claim of interest should be in writing.

- (ii) The application should be accompanied by a detailed sketch plan of the land involved which should show all boundaries, the names of prominent geographical features and the site of cultivations, economic trees, settlements and sacred places.
- (iii) The application for investigation should be accompanied by a statement of the material grounds of the claim, and no additional or subsequent grounds can be entered thereafter without leave of the Court.
- (iv) The Court may, if it sees fit, require from both the plaintiff and the defendant the genealogical tables showing descent from the ancestor or ancestors through which the interest is claimed and traced through to the plaintiffs and defendant.
- (v) The Court may if it sees fit, require from the defendant a sketch plan showing the approximate location of cultivations, economic trees, sacred places or any points of historic information, together with their names.
- (vi) The Court may, if it sees fit, require from both parties a statement showing the names of all persons who claim interests in the land in dispute together with the nature of those interests.
- (vii) The Court, before it proceeds to hear evidence, should inspect the boundaries of the land and secure agreement between the parties as to the precise area which is in dispute.
- (viii) The findings and judgment of the Court will describe the nature of the interests which are being awarded, and to whom.
- (ix) Judgments of the Court should be maintained in a Central Register, copies being kept in the District Register.
- (x) Lawyers and barristers will be excluded from representing parties before the Court.

The advantages and disadvantages of this proposal are summarised in the form of an argument:-

<u>Objections</u>	<u>Answers</u>
(i) The Court cannot operate unless the land is surveyed first.	(i) Providing the Court inspects the land carefully and agreement is reached with the parties as to what land is in dispute, no difficulties should arise. In any case,

inspection is carried out in some cases at present. The important principle is to insist on inspection in all cases.

(ii) Surely the Native Land Court would be resented because it will limit the powers of the Native Court.

(ii) No, because the Native Courts are not even beginning to make progress with land disputes, and by giving members more opportunity to sit with Europeans, they will learn quicker than at present.

(iii) But Native Land Courts are normally only set up to determine the nature of title claimed by natives before the land is alienated.

(iii) Although there is some truth in that, it does not apply in every case.

(iv) It is unsatisfactory that the President of the Native Land Court should be required to consult with the Solomon Island members before delivering judgment.

(iv) No, it is not. The Courts have too long been silent on the subject of native land custom. Codification is not being recommended by the Commission, and the only alternative is to provide means whereby the Courts can decide what the native custom is from place to place. Solomon Islanders on the bench of the Native Land Court will ensure that the President does in fact comprehend adequately the statements of the witnesses regarding native custom.

(v) But surely what is being proposed is merely another form of codification.

(v) No, because codification freezes custom and unfreezing by legislation is more difficult to effect than by judgment of the courts. The courts can better give effect to changes in native custom, than is possible by formal legislation. In any case, this Commission envisages the ultimate extinction of native custom in its present form by the adoption of a policy of progressive issue of individual land titles which will be held and transferred in accordance with specific legislation.

(vi) Are all judgments to be circulated?

(vi) No, only those which the Judicial Commissioner considers are of value. In this way it is hoped to build up a volume of precedents.

(vii) There can be few Solomon Islanders who could prepare a case in terms of the rules which have been suggested.

(vii) That is somewhat true, but a great proportion of land litigants can always find someone in their line to draw up a simple outline of what is required. Besides, it will teach Solomon Islanders to approach the courts with a sense of responsibility. The only other alternative is to charge high court fees. But the law should be cheap, especially in this Protectorate. It is surely better to encourage litigants to prepare their case. At the outset the court need not be over-strict. The object of the court is to civilise as well as to judge.

(viii) If Solomon Islanders were issued with titles in respect of native land, would disputes regarding such land be settled in accordance with custom by the Native Land Court?

(viii) No, they would be settled by the ordinary courts in terms of the legislation to govern such titles.

(ix) But how can lawyers be excluded, and surely it is undesirable.

(ix) They can't be excluded from the present courts, but on the basis of experience in other countries it is not desirable that Solomon Islanders, who already show interest in employing lawyers, should be allowed to be drained of their slowly growing resources by land litigation. There appears to be no reason why they shouldn't be excluded as is the case in Malaya.

The Registration of Judgments

21. Section 15 of Cap 50 (Land Registration Regulation) states:-

"Every judgment or order of a Court affecting land in the Protectorate, every resolution of creditors appointing a trustee

in the bankruptcy of a person having any title to or interest in land in the Protectorate and every resolution of an incorporated company having any title to or interest in land in the Protectorate appointing a liquidator shall so far as regards any such land affected or to be affected thereby be void unless a memorial thereof as hereinafter provided be registered at the Office within, in the case of a judgment, order or resolution pronounced made or passed within the Protectorate, three months from the date thereof, or within in the case of a judgment, order or resolution, pronounced, made or passed out of the Protectorate, six months from the date thereof. Provided that no judgment, order or resolution shall be void by reason of any error or omission of the Registrar."

The form of the memorial, which must include a description of the land involved, is not simple.

22. The Law Officers are of the opinion that any judgment respecting native land which has not been registered in accordance with this section, is invalid. This opinion was first brought to the notice of the administrative officers informally in 1949, when the then District Commissioner, Western, was faced with a flood of requests by Choiseulese who wished to re-open a number of long settled land disputes. From 1918 until the beginning of 1957, a total of 35 memorials have been registered under the particular section of the Regulation quoted. Of these, 16 are judgments in actions between Solomon Islanders over native land, while the balance involves Europeans and is mainly connected with alienated land. Of the 16 judgments, 11 are in respect of disputes settled in the Western District between 1949 and 1951, while five are from Malaita and date from 1952. No judgments of the native courts have been registered. No pre-war judgments are registered. Central and Eastern Districts have produced none for registration, while Western and Malaita's judgments are obviously incomplete. The most notable judgment missing is that of Mr. Judicial Commissioner Charles in the important case, Hanasiki v. Symes.

23. The problem was discussed at the 1955 District Commissioners' conference, but few conclusions were reached and no progress has been made since. The Commission considers that uncertainty of policy in respect of this contributes in large measure to the reservation with which Deputy Commissioners are treating land disputes. In 1956, no cases were heard in Western, Central and Eastern Districts, while only three were heard on Malaita. It is a matter which should receive the earliest possible attention.

24. The problem reduces itself into three elements, viz:-

- (i) What is to be done about unregistered judgments of the High Commissioner's Court of the past 40 years or so, many of which have been lost during the war or are now indecipherable?

- (ii) How should unregistered judgments of the native courts be treated, many of which could not be translated into memorials anyway?
- (iii) How should all future judgments be treated?

25. At the outset, the question arises: was it the intention of the legislators in 1918 that judgments in actions between Solomon Islanders in respect of native land should be registered? The British Solomon Islands Protectorate papers for this period are lost, but the Western Pacific High Commission archives in Suva have been meticulously examined, and reveal not the slightest suggestion that this was ever the case. Moreover, it seems strange that an era of administration, which today appears almost pedantic in its precise adherence to the law, should have been so neglectful in its compliance with section 15. Having regard to all considerations, including the fact that legislation generally was positive in its approach to alienated land but negative towards native land, the conclusion is inevitable that Cap 50 was intended to apply to instruments only in respect of alienated land and non-native interests, and was certainly not intended to apply to native land held under an ill-defined customary title. No good reason can be seen why this should have been otherwise.

26. In view of this, it is recommended that Section 15 of Cap 50 should be amended immediately to exclude the requirement that judgments given in disputes in respect of native land, held under customary title, should be registered in the Lands Registry Office and that this should be given retrospective effect. This will meet the elements of the problem outlined in paragraph 24 above.

27. It will perhaps be argued that because proposals are being made that individual titles should be issued in respect of native land, that judgments of the courts should, in fact, be registered, since these will provide a basis for adjudication of title. While such judgments would no doubt constitute de facto evidence of full ownership, they do not absolve the necessity for formal adjudication, since they merely represent evidence in respect of A's interests as opposed to B's. They do not constitute a basis of indefeasibility against all comers. The maintenance of a Central Register of judgments, as suggested in the previous section, would meet any requirements in the way of records for adjudication purposes. The essential point is that, on the one hand, the judgment of the Courts in respect of customary land should not be invalidated for failure to register, while on the other, it should not be the basis for the issue of an indefeasible individual title.

28. The final question to be considered is what should be done about judgments in disputes in native land once the titles have been issued and the customary element has been extinguished. Since such titles will be issued and registered under special legislation, the same legislation should also govern the later disposition of entitled land. Provision will have to be made for the settlement of disputes,

and since it would be inappropriate for these to be heard in the Native Land Court, as already stated, they should go to the ordinary Courts, after which the judgments which probably would materially affect the title, should be registered with the Lands Registry Office.

The Enquiries and Findings of the first Lands Commission, 1919-1924.

29. As explained in Chapter III, the first Lands Commission was set up to hear certain claims by Solomon Islanders in respect of specific lands alienated to individual Europeans or European companies. The Commission sat between 1919 and 1924 and heard 55 separate claims together with a number of subsidiary claims which brought the total to 66. Claims are numbered 1 - 55, subsidiary claims being lettered numbers. Recommendations were gazetted, and objections called for within six months. If any were raised the objections were heard by the Commissioner, and further recommendations gazetted. Eventually the Secretary of State's confirmation of the recommendations was gazetted. In terms of the legislation governing the Commission's enquiries, the recommendations then became findings and were given full effect in law. Only two claims, namely Nos. 38 and 39 at Vanikoro were not confirmed.

30. Appointments, recommendations, calls for objections, notices of objection, final recommendations and confirmations are to be found in the Western Pacific High Commission gazettes for the years 1919 to 1928. A summary of findings as they appear in the gazettes was circulated to District Commissioners in 1948, by the then Commissioner of Lands. Precise references to the gazettes were circulated in 1954 by this Commission. Notes of proceedings and the reports of the Lands Commission have been lost, but photo-stat copies of the greater proportion of these have now been obtained from the Colonial Office. As far as can be ascertained, all boundaries as re-defined by the Commission were surveyed, though a proportion of the plans was lost during the war.

31. These facts are set down in record since, although the work of the first Commission belongs to the past, questions about its findings are still raised regularly by Europeans and Solomon Islanders. Apart from that, it is considered that they are a valid basis on which titles could be issued without further enquiry. District Commissioners should familiarise themselves with the claims which were settled in their districts and care should be taken in answering questions. Reference is now easy and a full and clear picture can be obtained of the circumstances and findings of each claim. The proceedings and reports also provide a fascinating background to early conditions in the Protectorate and since all local records were lost during the war and the High Commission archives are in Fiji, these documents represent the little historical capital the Protectorate now possesses.

32. Apart from anything else, the minutes of proceedings are instructive on procedure, besides being illuminating on land problems generally.

33. Suggestions have been made to this Commission by Solomon Islanders that certain claims settled by the previous Commission should be reopened. In particular, many people of New Georgia wish to reopen the Levers' cases (claims 30-37) while those of Western Koio have sought the reopening of the Malaita Company's cases (Claims 1 - 16 - lands on Malaita, now owned by the Fairymead Sugar Co. Ltd.) This Commission is of the opinion that no justification exists for these or any other of the former claims to be reheard for the following reasons:-

- (i) The decisions once confirmed by the Secretary of State were to be absolutely final.
- (ii) There is no basis for any suggestion that the Commissioner within his terms of reference, was anything else but eminently just, completely reasonable and unbelievably patient.
- (iii) No fresh evidence of material value has come to light nor is it ever likely that it will come to light now.

This view is put forward without prejudice to any political or economic circumstances which have emerged since the findings were given effect in law, or may emerge in the future, and which public policy might consider to be good enough reasons for giving fresh appraisal to the disposition of lands, which both Europeans and Solomon Islanders acquired in consequence of the findings of that Commission.

The Nature of Evidence

34. In describing the general pattern of land tenure, the Commission has been concerned to accentuate certain basic principles which are applicable throughout the Protectorate. These principles are particularly relevant in the settlement of disputes, but as frequently as not are obscured by a tangle of irrelevancies. In this section a brief summary is given of the sort of evidence which should be sought. Obviously, the evaluation of such evidence is a matter for the Courts.

- (i) A claimant should be knowledgeable as to the name of the land, its physical boundaries, and the names of leading geographical features. Normally, he should also have limited knowledge of adjacent lands.
- (ii) He should provide evidence of the historical basis of the interest claimed, whether derived by discovery, conquest, transfer, or simply by continuous possession, the origin of which may be lost far in the past. He should be familiar with the general history of the land and the people who have occupied it to the present day.
- (iii) The nature and extent of the occupation and possession,

and whether or not this has been continuous, i.e. from before 1893, are particularly relevant.

- (iv) The interest claimed may be either primary or secondary; whichever it is, the claimant should describe or produce witnesses to show the precise nature of the interest. The recognition by the community generally of the extent to which the interest has been continuously exercised is of considerable importance.
- (v) Claimants should be able to name and point out any sacred places in the land and describe their significance; this includes naming the spirits or ghosts propitiated there and the leaders in the ceremonies performed. The claimant's own relationship to such places is important, particularly whether or not any of his ancestors were buried in the land. Evidence concerning sacred places must be carefully scrutinised.
- (vi) Any genealogy produced should be related by the claimant to the evidence elicited in respect of (ii) to (v) and its pattern should conform generally with the rules of descent in the society concerned. It should also be possible to relate it to any genealogy produced by a defendant or any witnesses and to account for any discrepancies. Unrelated genealogies are useless.
- (vii) If the interest has been acquired by inheritance, this should be related to the genealogy and should conform to the rules of inheritance commonly found in the society. If the interest is claimed by inheritance, through a female in patrilineal societies or through a male in matrilineal societies, particular regard should be given to the precise manner in which the interest was acquired (especially if it is a primary interest) and more especially to whether or not other primary interest holders of the transferring group gave their consent.
- (viii) Evidence should be provided regarding past land authorities, the degree of control exercised by them, and the names and status of present land authorities.
- (ix) If the claimant is an adoptee, absentee, immigrant, or stranger; or is a descendant from one of these, the original acquisition of interests should be examined in the light of custom regarding such persons in the particular society.
- (x) If the interest was acquired by transfer other than by inheritance, careful examination is necessary to ascertain the nature and basis of the transfer, whether in respect of debt, services rendered, compensation or by customary sale; whether by cash sale, gift, guardianship, loan or

by resumption after expiry of native lease.

- (xi) Whether or not virgin forest can be cleared in the land without seeking permission of the land authority, and more important, whether or not such interests have in fact been exercised.
- (xii) Whether or not the claimant has planted economic trees in the land, and in particular whether cash crop trees have been planted; and whether authority was sought.
- (xiii) Whether or not hunting and gathering has been freely and continuously exercised.
- (xiv) Whether an exclusive possession is exercised over the reefs which adjoin the land.
- (xv) Whether exclusive possession is exercised over the fishing reaches in adjoining rivers.
- (xvi) Whether customary prohibition has ever been applied in respect of the interest, and in particular, whether it has been complied with.
- (xvii) Names and sites of any disused settlements should be known. If residence was formerly in the bush, historical details of the exodus, including the approximate time and circumstances, should be forthcoming.
- (xviii) If the interest disputed relates to village land, evidence should be produced relating to the nature and basis of the interest in such land.
- (xix) The claimant should be able to name the sites of his own cultivations and groves of economic trees, and describe them in detail. The evidence should show whether or not he or any of his ancestors ever sought permission to cultivate in these areas. The claimant should also be able to provide evidence regarding past cultivations, together with nearby cultivations and groves.
- (xx) He should be able to name co-interest holders and describe the nature of their interests.

MISCELLANEOUS LAND TENURE MATTERS

To conclude this part of the report, it is proposed now to deal with a number of miscellaneous matters which have already been the subject of brief reference. This will complete the land tenure picture before passing on to the overall recommendations in the final part.

Local Government concern in Land Tenure

2. Section 18 of the Native Administration Regulation (Queen's Regulation No. 10 of 1953) confers considerable powers on Local Government in respect of native land. The particular section states:-

"A Council may make and pass resolutions for the welfare and good government of the native inhabitants of the district for which it is established in respect of any matters affecting purely native administration within such district and, without prejudice to the generality of the foregoing, in particular in respect of the following matters:-

- (a) food and water supplies;
- (b) the control and preservation of forests or native owned lands;
- (e) the use of land, and the regulation of the occupation of land by natives;
- (h) the control of livestock;
- (k) fishing and fishing rights;
- (o) defining and regulating such native customs as are not repugnant to good morals or to the laws of the Protectorate and which the Council considers should be recognised".

Section 19 provides that resolutions are subject to the approval of the High Commissioner except that in the event of any sudden disaster or emergency, the District Commissioner or the council may make such decision or take such steps as is thought fit to deal with the situation.

3. With the exception of the Malaita Council, these powers have scarcely been used. No resolutions affecting land had been passed by Western District Councils up to the time of the Commission's

visit. In the Central District, the Savo Council has, as stated in a previous section, passed several useful resolutions controlling the megapode fields. The old Tasimboko sub-district Council (now merged with the Guadalcanar Council) passed two resolutions indirectly concerned with inheritance and usage. It had also improperly heard two land disputes. The Guadalcanar Council has passed a resolution relating to the devising of moveable property, but this does not relate to interests in land.

4. In Ysabel, up to the end of 1954, the Council has passed several resolutions governing the trochus shell fishing by Europeans, unoccupied lands, the loan of interests in land, the position of immigrants, payment for trees used in constructing canoes for sale, and enforcement of the planting of coconuts by able bodied men. None of the resolutions was properly framed, none has been enforced and none appears to have been submitted for approval. The resolution relating to coconut planting, however, has been enthusiastically taken up and satisfactory results are obvious and visible. Finally, in 1952, the Council discussed the question of employing an Ysabel man, Mr. George Bogese, in preparing a register of all lands owned by Ysabel lines. Mr. Bogese's mother was a Fijian woman; he has worked with the School of Anthropology at Sydney University and has had a paper published by "Oceania". Although Mr. Bogese has established something of a reputation for himself as an expert on custom in some circles, he does not regard himself as a reliable authority on custom outside his own part of the Bugotu sub-district. The proposal has not been pursued further.

5. In the Eastern Solomons, the San Cristobal and Ugi Councils have not passed any resolutions on land matters. At Ndeni the position is the same. At Vanikoro, the future of the kauri forests has been discussed. In the Duff islands it has been suggested that the Council might allocate vacant lands, while in the Reef islands, the Council has found it necessary to warn the people that customary prohibitions must be respected, and that trespassing in cultivations will result in prosecution in the native court.

6. It is the Malaita Council that has shown the greatest interest in land tenure. This certainly reflects the view of the greater proportion of the people. Though the number of resolutions passed and approved has been few, the views of the Council have been expressed in recommendations to Government, and in questions and statements made at meetings. In the January, 1955, meeting of Council, the following resolution was passed:-

"That ownership rights to land should descend in the male line, and that children descended from a woman should have no rights of ownership unless all descendants from the male line are dead".

1. George Bogese, "Santa Ysabel", Oceania, p.210. May and June, 1948.

This resolution was badly drafted. The use of the word "ownership" implies that neither the women, nor anyone descended from her, has any interests in a particular land. Not only is this not true generally, but in particular areas, such as Lau, women have very extensive interests, which they pass on to their children. The resolution has not been approved. At the same meeting the recommendation was made that all native land cases should be made the subject of enquiry in the native courts before reference to a Deputy Commissioner's or higher court. This recommendation has been given administrative effect, though in fact some of the native courts are reluctant to concern themselves in land disputes. Such a resolution could, however, result in litigants being prevented from gaining access to the higher courts. If the land involved was valued at more than £100, the position becomes quite unsatisfactory.

7. The Council has constituted an Agricultural Committee which was asked to report on the best methods of economic land development. The Committee reported in favour of small farms operated by a man and his family, rather than big communal farms. Such units would in any case involve an element of forced labour. Since the leaders still set considerable importance by the communal farms, which have political significance, little further attention has been paid to the recommendations of the Committee.

8. The representative of the custom committee in Ariari has told the Council that primitive money is being collected to pay men working on the communal farms and those writing down the genealogies. However, the Council, which has been by no means clear about the functions of these committees, has not shown itself particularly satisfied with them. The Committees have also expressed a desire to control all land in which Ariari people claim interests outside the sub-district, notably at Marau, Guadalcanar, Ugi, and Small Malaita. The committees have been told firmly, that they must confine themselves to affairs inside Ariari.

9. In the November, 1956, meeting, a resolution was passed restricting the fishing of trochus shell to the months between February and August to prevent the reefs being fished out. Action on this useful resolution has been delayed pending consideration of the van Pel report.

10. It is on the question of the alienation of land owned by Malaitamen on which the strongest feelings have been exhibited. The matter came before the Council at an early date and on 13th September, 1954, the then High Commissioner made the following statement to the Council:-

"I noticed when I was reading the account of your last meeting that there was some talk about a request that the Council should pass a resolution making it impossible for non-Malaitans to acquire rights to further ground on Malaita. I feel that there may be some misunderstanding regarding what the law of the Protectorate says about this matter. It may be thought

that the High Commissioner has the right to dispose of native land to other people without consulting the owners. This is not the case. What the Protectorate law says is this:-

- (i) Native land cannot be sold to anybody, though it may be sold to the Protectorate Government provided it is not cultivated and provided it is not required for the future support of the natives.
- (ii) Native land may be leased to persons who are not natives but not unless (1) the owner or owners of the land agree, and (2) the High Commissioner also agrees. It is not enough that the High Commissioner should agree. The High Commissioner cannot lease land unless the owners also agree. In the same way it is not enough that the owners should agree. The High Commissioner should also agree. The reason for this is that the owners may not be able to find out all the things which they ought to know in order to be certain that the people who want to lease the land will give them a fair rent and use the land properly for the interests of everybody concerned. In the old days it was possible for natives to lease land to non-natives without the consent of the High Commissioner. In some cases land was leased in this way or even sold to persons who were not natives without proper compensation or rent being paid. The Council themselves have complained of cases of this sort. Those cases would not have occurred if the law then had been as it is now. The law as it now stands is provided to make sure that the interests of the owners will be protected.

It should thus be clear that if any owner or owners of land do not wish to lease their land they can refuse to do so. But if they wish to do so and the High Commissioner agrees that it would be reasonable for them to do so, then it is not right that they should be prevented from doing so by other people who do not own land. People should not be prevented from using their property in the way that they want to provided they will not suffer by doing so and the High Commissioner could not agree to interfere with the right which landowners have in a matter of this sort. I hope there will be no further misunderstanding about this matter."

Despite this statement, the November, 1956, meeting debated the matter again at considerable length. It was proposed that the Council should pass a law making it impossible for non-Malaitans to acquire rights to further land on Malaita. Statements were made that Europeans had acquired all the best land on good harbours; that advantage had been taken of the people's ignorance, and boundaries had been extended; that valuable land had been leased for a mere pittance; and that, with a large and increasing population, soon there would not be enough land. Applied to a few particular alienations, there is partial truth in all of the statements, but they cannot be held to apply to Malaita generally. However, they reflect

something of the feeling that exists. This was particularly noticeable when the Council was informed that its authority did not extend to preventing persons who so wished from leasing their lands. The Council felt that if this was impossible, there was no justification for its existence. One member wished to know whether the Council could "buy" a lawyer to come and put a law about their land. Eventually the Council passed a recommendation that it should be consulted before land belonging to Malaitans is alienated. Were such a recommendation to be accepted, it is inconceivable that the Council would exercise its right to be consulted except as a veto.

11. Mixed up with this issue is a half formed idea of a "Security Land Council" which would: (a) prevent the alienation of land to "foreigners"; (b) re-allocate Malaita native lands in terms of needs and capacity; and (c) deal with the problem of "interest land" which the more responsible members of the Council now view with some concern. The first objective seems to be a defensive measure if the Government refused to accede to the Council's recommendation referred to in the previous paragraph, for through the machinations of custom, pressure could be brought to bear to ensure that lands were not in fact leased to Europeans, as has been the case in a few instances in recent years. The second objective is probably a worthy one, but it is not thought that any purely Malaita committee would be capable of dealing with the problem equitably, apart from whether or not re-allocation would be acceptable to land owners generally. The third objective is very worthy indeed, providing there is in fact real recognition of the evils attendant upon "interest land". In fact, the objective could be more quickly attained by a simple resolution of the Council affirming that "interest land" has no basis in custom and will not be recognised.

12. It seems to the Commission that two distinct questions of policy emerge from the present extent of Council concern in land tenure. First, what powers should the Councils hold over native land, and second, should Councils be consulted in respect of proposed leases of native land?

13. As regards the first question, the Commission is of the opinion that the powers granted under section 18 of the Native Administration Regulation are both too vague and too wide. They are so vague that most Councils are obviously hesitant to resolve on matters of land tenure; they are so wide that a Council such as the Malaita Council could place all interests in native land in jeopardy. For example, it could reserve any area of land occupied or unoccupied to its own purposes or set up a complete land code. Probably, the resolutions would not be approved; but since experience on Malaita has shown that, to both leaders and people, mere declarations of purpose or intent is tantamount to achievement, it seems unwise that the Council should ever be given the opportunity. Apart from anything else, the regulation, control and disposition of native lands, not only between Solomon Islander and European, but also between Solomon Islanders themselves, is a responsibility which

should be assumed by Central Government.

14. Apart from the proposals made in Chapter VII regarding the future of settlement lands, there are two important avenues in which Local Government can contribute. One is by determining the nature of local custom as it affects customary land, and the other is by providing Central Government with that advice and information without which the administration of native lands becomes impossible.

15. As regards the first, the Commission envisages that Councils should be encouraged to approach custom not polemically, but with some critical dispassion. Resolutions should be simple, but comprehensive. It is not necessary to resolve on every land custom, indeed it would not be desirable, but in circumstances where custom has become confused or else alien and undesirable tendencies are creeping in, then the Council should deal with such matters. In this connection, it is emphasised that because of the diversity of custom, the Councils should ensure that the areas to which their resolutions refer are made clear. Care must also be taken that resolutions are drafted in a manner that takes into account all reasonably foreseeable circumstances related to the particular custom. District Commissioners and other officers connected with native land policy will have to assist in this. The provision of model resolutions would be invaluable. Normally, resolutions on land tenure will be enforced by the courts but, as in the case of any enacted legislation, it will be up to the courts to interpret such resolutions.

16. Accordingly, it is recommended that section 18 of the Native Administration Regulation should be redrafted to limit the responsibilities of councils to the definition and regulation of such native customs in respect of customary interests in land, crops, economic trees, forests, reefs, rivers, swamps, mountains, plains, water supplies, livestock, hunting, fishing and foraging, together with the transfer of those interests, as are not repugnant to good morals or to the law of the Protectorate. The new section might also detail those other responsibilities which, in consequence of this report, it is thought appropriate should be vested in Local Government. It would be preferable for provision to be included in the land code, but convenience might necessitate it being retained in the present regulation. If the proposals made in Chapter XIV are accepted, the passage of time will see all customary titles extinguished and replaced by legal titles governed by legislation. The responsibility for resolving on custom will therefore be a declining one, and eventually will disappear altogether. This may not happen of course, for several generations.

17. As regards the second avenue, it will be proposed later in this Report that Local Land Committees should be set up and charged with the responsibility of advising Central Government, through the District Commissioner, on various problems and matters relating to the control and use of native lands. Such Committees should be constituted to include representatives of Councils. The precise scope of their work is set out in Chapter XV.

18. Turning now to the second question, any accession to the demands of the Malaita Council that it should be consulted before land is leased, would represent a very severe encroachment on the liberty of the individual, besides placing in the hands of the Council extremely wide powers. Apart from the fact that no such demand has been made by other Councils and, therefore, the Malaita view represents a minority of the Protectorate, the Commission does not consider that any Council has yet developed sufficiently for it to be entrusted with such responsibilities. If such powers were transferred, the situation could conceivably arise where a mission body, in a minority in the Council area, having reached agreement with the owners over a lease of land, could be prevented from taking up the lease because the majority of the members in the Council, adhering to a dominant mission, would almost certainly veto the lease. Such a situation might arise with some frequency.

19. Nevertheless, since the absolute discretion to grant a lease of land under the present legislation has been delegated by the High Commissioner to the Commissioner of Lands, it would seem desirable that such discretion should be limited, and provision should be made to ensure that the District Commissioner of the district in which the land is situated, is consulted before the lease is issued. In practice, at the present time, all lease applications are forwarded through the District Commissioner who, naturally, makes some sort of recommendation. It would seem desirable, however, that this practice should be confirmed by legislation which should also authorise consultation with the appropriate Local Committee as to whether or not the land is not in fact under cultivation or required for the future support of the owners. (See Chapter XV)

Competition for Coastal Lands

20. The exodus to the coasts and some of the effects of this have already been referred to several times. It is necessary, however, to give a brief survey of the overall problem, since it takes different forms in different places and in the case of some islands does not constitute a problem at all.

21. Taking the Western Solomons first, in Choiseul, as it has been said, the population formerly lived inland. The elite inhabited the heart of the island while the less regarded people lived on the ridges near to the coasts. The missions attracted the latter to the coasts first, and conflict with the descendants of the elite who came later, has gone on ever since. Wars were fought over land even in the late 'twenties, and direct administration was not established until just before the Pacific War. The problem scarcely exists in the Shortlands, since the people are the descendants of conquerors and in any case settled on the coasts. The fact that almost 50 per cent of the best coastal lands has been alienated to Europeans may cause trouble when the population increases, though this is unlikely for many years.

22. In Vella Lavella, there is comparatively little competition, but immigrant lineages, who formerly lived on the foothills, reached the coasts first and are regarded with some jealousy. The main problem here is that most of the lands situated about the best harbours and anchorages -- there are few of these -- have been alienated. Feeling, therefore, is directed against Europeans and the descendants of the vendors, many of whom, it is said, had no right to alienate the land.

23. In Roviana, there were formerly two distinct tribes, bush and saltwater people. The former lived inland behind Kusage to the west and the Roviana lagoon to the south; the saltwater people lived on the coasts or the coral islands. The bush people were not headhunters - they did not make Tomakos nor did they have Bangara. These tribes, which included the Kusage, Kazukuru, Tavasage, Maefu, Hoize and Hovilana people, were the object of little regard by the saltwater people. Mr. H. Wickham stated that prior to protection, they were already dying out from disease, but following the arrival of the Mission and the Government, the few that were left moved to the coasts, most of them being attracted to the lagoon which, until Captain Davies' Naval action against Roviana, had been a closely defended stronghold. In 1931, Mr. J.H.L. Waterhouse² writing in "Man", of one of these tribes stated "there are few Kazukuru people left and these are intermarried with Roviana and Munda folk". Today, the Kindu, Lambeti and Dude people living on the north coast of the lagoon, in the vicinity of Munda, call themselves Kazukuru people and claim all the former bushlands of these people, though these are seldom visited. Conflict occurs, however, when individual interests are analysed; this reduces itself to determining who is pure Roviana and who is pure Kazukuru. It is a clash between saltwater and former bush people who now are so intermarried that claims are impossible to resolve.

24. Another example of this occurs to the north eastern end of the lagoon. The people of Saekile live in two villages, Hapei and Saekile. The Saekile lineage belonged to Kalikoqu and once lived on Roviana island. Six generations ago, they left the island under a Bangara named Odikana, and settled on the eastern end of Doro island where the present village stands, and founded a new lineage. On the Mainland opposite, between Razu and Kaka point, the four tribes, Tavasage, Maepu, Hoize and Hovilana were living, having been driven to the coasts by pressure in their rear. The Saekile people reached friendly terms with these people and intermarried with them. Today, these four tribes no longer exist as separate entities - they, and the former immigrants from Kalikoqu claim to be "one people". The total population of this "one people" is only 197. They claim all the mainland "back to the first line of high hills" and the islands from Razu to Kaka point, an estimated area of 58,000 acres which is a fraction over two persons to the square mile, which is of course

2. J.H.L. Waterhouse, "Kazukuru Language of New Georgia", "Man" No. 133, Royal Anthropological Institute, 1931.

quite absurd. A part of this area, from Razu to the Bahora river, together with the islands of the lagoon has long been claimed by another branch of the Kalikoqu tribe living at Sasavele, Baraulu and Nusahope, and this claim is the subject of bitter feeling by the younger "land chiefs" of Saekile. But the Kalikoqu intermarried with the four "lost" tribes directly and indirectly through the Saekile people, with whom they are of course, closely related. An elderly informant from Saekile said all these tribes were so intermarried that they were "one people". Their land interests are closely entwined in consequence, and a solution to such a dispute would be difficult to arrive at. Recently a further complication has arisen; descendants of Hovilana people have sought to define the boundaries of the Hovilana land within the wider Saekile claim. The problem is not so much to define the physical boundary, but to decide who is in fact a descendant of the Hovilana people. This also is impossible to do.

25. These conflicts have developed comparatively recently, and are indirectly due to the failure of the Roviana people to retrieve those lands on both sides of the Diamond Narrows and in the vicinity of Kusage which were alienated as waste lands, and were the subject of claims heard against Levers and other companies by the first Lands Commission. Extensive reference has already been made to this question, and it is simply sufficient to say that in the Roviana, competition for coastal lands is closely linked to claims to bush areas, though these are practically waste lands. The whole conflict also manifests itself in intense feeling against the European companies and the Government, for letting these companies acquire them.

26. In the Marovo, competition between the saltwater and bush people is not particularly serious, since all are now closely intermarried and the population is, in any case, small. The coastal lands and islands are of prodigious extent. Only 301 persons claim interests in the north western part of the lagoon, the land area of which is 260 square miles. The density is therefore about .8 to the square mile. Such feeling that exists today broadly resolves itself into a clash between two missions - between the one that arrived early and converted the saltwater people, and the other that arrived late, and converted the bush people, who hitherto had been slow to appear.

27. Turning now to the Central Solomons; in Ysabel, more than half the population of the Hogorama and Maringe sub-districts were still living inland in 1953. These are descendants of the people who for nearly a hundred years had borne the heat and burden of the day against the Roviana headhunters. They were reluctant to leave the bush. Their fears were not easily allayed; one of their early missionaries discouraged them from leaving the bush for health reasons; furthermore, they were great taro eaters and distrusted the coastal soils. But those a little braver than the rest, perhaps attracted to the fleshpots of European trade, did go down and established themselves on the coasts. The land they did not require,

which was considerable, they alienated; the rest, they planted with coconuts, or otherwise established interests. Today, coastal lands are not available to the bush people who now see the economic advantages of the coasts. The absurdity of the situation is underlined by the fact that in north western Ysabel can be found one of the worst examples of excessive land claims combined with under-population. North west of Kokoregi, an area of 1,030 square miles is claimed by 762 people living in 10 villages, one of which, Kia, contains 415 people. Only 36 square miles of this land is alienated and the population density is .7 to the square mile.

28. On Savo, all the people live on the coasts, but the conflict today is between the descendants of those who got there first and established interests on wide coastal front with rolling country behind, and the descendants of those who got there last and had to content themselves with narrow frontages, on rocky headlands. Copra is, of course, the determining factor. In Florida, very little competition exists for coastal lands. The people of most villages are tolerably satisfied. Partly this is because the exodus was orderly; for with the capital on Tulagi, and the Melanesian Mission headquarters at Taroaniara, both Government and Mission were able to devote considerable attention to the establishment and siting of villages. It is also because, before the war, the Nggelese were on the doorstep of the Protectorate, and found trading relatively easy; with the transfer of the capital to Honiara, life has become much more difficult; the people have lost their drive and enthusiasm; they suffer from a sense of martyrdom and dismay that conditions are not what they were; now they produce very little copra.

29. In the Russell islands, all but four or five miles of the coastal lands and the greater proportion of the smaller islands have been alienated. This is the cause of some bitterness towards the two European companies and Government. However, the population of only 336 is very small; the people have sufficient for their needs; and any sense of bitterness has not prevented them from making the most of their opportunities. They produce considerable quantities of copra, have a high material standard of living and are shrewd traders.

30. Of all islands, competition for coastal lands on Guadalcanar has caused less complications than would be expected, especially since about two-thirds of the northern coastline have been alienated. Prior to protection, it appears that the population consisted of two main types - the bush people who lived in the mountain fastness and the "coastal" dwellers who did not actually live on the coasts, but just inland on the plains, in the river valleys and on the foothills. The population appears to have been denser than the other main islands, Malaita excepted, besides being more primitive and conservative. The coastal dwellers were not versed in the arts of the sea, and from this point of view the dividing line between them and the bush people was slight. They learnt the ways of Europeans slowly, and since to the north the coasts meant little to them, the flat alluvial lands were quickly alienated. The high mountains and dangerous surfs of

the weather coast did not attract European settlers. The small population already on the south coast required the few square chains of flat or hilly land for their own support. By the time the bush dwellers might have been tempted to move to either coasts, the northern "coastal" dwellers were feeling the effects of extensive alienations and had developed land consciousness, while to the south the land was just not available. Furthermore, many generations of conditioning to high country had made the people susceptible to the heat and disease of the coasts. In addition, the social structure of the lowland people, with its endless complications over women, was unattractive to them.

31. Today, the present coastal dwellers are jealous of the lands held by Europeans, and would resist any suggestion that the bush people should come and share their lands. The Tasimboko and Roroni areas are exceptions; the bush people have, in fact, been invited to the coasts, but they now prefer the high country, despite the small cash income which is derived from the sale of wooden bowls, tobacco, fish nets, pigs, garden produce and occasional labouring.

32. Turning now to the Eastern Solomons, coastal dwellers of San Cristobal have traditionally been regarded as the last immigrants. Population was then much greater, it is said, and when the missions and the Government urged the move to the coasts, depopulation had been so great, and the alienation of coastal lands so limited, that little competition occurred. Furthermore, a considerable number preferred to remain inland, and it was not until the Marching Rule, that the bulk of the remaining villages moved to the coast, leaving but a handful behind. Since the establishment of the Makira Council, the growing interest in economic activity has caused a noticeable increase in competition for coconut lands.

33. In the Santa Cruz group, the only island with a bush population of any significance which survived the assaults of disease, was Ndeni. By the time that these people came down from the hills, depopulation had been so great that integration caused little friction.

34. Finally, to come to Malaita, with its much greater population, its marked political and land consciousness and its two peoples, the bush and saltwater. These peoples have distinct cultures and differing needs and incentives which, though apparently integrated in a measure, are in fact widely separated. Today, there are three elements in the conflict over coastal land. They are as follows:-

- (a) Between the people of the artificial and natural islands, and those now living on the coasts who formerly lived in the bush.
- (b) Between the people who formerly lived in the bush and now inhabit the coasts, and those people who still live in the bush and would like to live on the coasts.

- (c) Between the people who traditionally lived on artificial or natural islands, and those who still live in the bush.

35. The best example of (a) is the clash between the Langa Langa people and the coastal dwellers of Kwara'ae. Formerly, enmity was so great that the Langa Langa feared to visit the mainland for fresh water; they drank a mixture of salt and rain water. Some Langa Langa people produce genealogies related to the history of the manufacture of shell money to show that the male line originally stemmed from the seventh tribe of Kwara'ae and that the female line, which was immigrant, introduced the shell money and the distinctive Langa Langa dialect. On these grounds, they claim to be at one with Kwara'ae and therefore entitled to the coastal lands. Yet another explanation, and possibly a more realistic one, is that before the Government arrived, the Kwara'ae people did not concern themselves with the actual coastal lands, which after all were mainly swamps. Later when the issue was raised to the Government, though no record of this has been found, it was agreed that the boundary between the bush and saltwater should be Talakai, a line now roughly followed by the Government road going south. Between Talakai and the sea the land was free to anyone for foraging, gathering or cultivating. But today, inside this imaginary line, the West Kwara'ae people have settled - partly compelled there by the attraction of the coasts and partly persuaded by the Marching Rule. Thus the position is now that both saltwater and coastal people have established interests in the coastal land; each claims exclusive possession; in neither case, however, is it likely that exclusive possession could be established.

36. As regards (b), many examples are to be found throughout Malaita. It would be as well to take To'obaita, where the exodus to the coasts, particularly in consequence of the Marching Rule, has been recent and visible. Prior to 1946 and 1947, the bulk of the population lived inland and visited the coasts to gather on the reefs, collect coconuts from their groves or to attend church and walk about. The whole bush population moved to the coasts during the Marching Rule. In those years, permanent coastal dwellers were little concerned, since it was all in a good cause. But when the movement became discredited, the former bush dwellers were loathe to move back. Some have now done so, but many have stayed. Of these, a number have now been reluctantly accepted as coastal dwellers, while others exercise secondary rights acquired on the distaff side. Those who got to the coasts first show resentment towards the later arrivals. This was an indirect cause of the Bokolo land case, from which an extract of the judgment is quoted in Chapter XIII. Other cases of a similar nature are pending in the sub-district, while elsewhere, in Eastern Koio, Baelalea, and Baegu'u, identical situations have developed.

37. The conflict referred to at (c) is not quite so common. Odd instances are found in the Lau lagoon area, though there the two groups are better integrated than elsewhere. It is found in Uru and in Eastern Kwara'ae. At the former place, reefs have been the

main issue, while secondary interests acquired through marriage, is an occasional issue between the Nonosila and Kwi people, and the bush people; it is accentuated by the rapidly increasing population on the two islands. Lastly, at Port Adam, where it is freely acknowledged that the saltwater people are comparatively recent immigrants, both land and reefs have been in severe issue.

38. Finally, as regards Malaita as a whole, while the sum total of alienated coastal lands is proportionately small, a very lengthy and valuable strip has been alienated in Western Koio between Buma and Su'u. A great many other highly regarded plots and lands situated on sheltered harbours and anchorages have also been alienated. The fact that many of the alienated lands are not in effective use irritates the Malaitans, so envious of coastal lands generally.

39. Throughout the Protectorate the move to the coasts has several common characteristics and motives. They are as follows:-

- (a) that bush people within reasonable distance of the coast, regard themselves as holding proprietary interests in all land in a direct line between their bush settlements and the coasts; this is based partly on hunting, gathering and other interests exercised irregularly, and partly because they regard themselves as holding a prior right of egress;
- (b) that notwithstanding this, groups are often in conflict as they settle or move across one another's direct line of egress to the coast; this is resented, mainly because in subsistence cultivating, it is not customary for one man to cut across another's line of advancing plots;
- (c) that frequently, the actual exodus to the coasts occurs over many years while interests are established by settlement and cultivation on the land over which the exodus proceeds; such acts are not deliberate, and the interests established are seldom continuously maintained; nevertheless, they are claimed as "live" interests;
- (d) that while the coastal lands are desirable for settlement, they are even more desirable as coconut land, and this becomes especially apparent in times of high copra prices;
- (e) that peace, order and good government, together with the influence of missions and the attractions of trade, have stimulated the competition for such lands;
- (f) that undeveloped alienated coastal lands stimulate the competition, apart from causing a demand for their resumption. This has been aggravated by the techniques of earlier planters to avoid forfeiture of land under the proportionate improvement rule. The whole of the fore-shore was planted to a few chains depth, while the back

land was ignored. Such land became useless, and made confiscation for non-compliance with improvement conditions pointless. Furthermore, it resulted in Solomon Islanders abandoning their lands further back because their access to the coast was cut off. Europeans hoped and believed that such lands would then be proclaimed public lands since they were "waste", which would then improve the value of the coastal fringe;

- (g) that all these characteristics have led to excessive claims to coastal lands, many of which cannot be substantiated.

40. In all these circumstances, it seems to the Commission that since it was customary in pre-protection times for Solomon Islanders to establish primary interests in unoccupied land, original discovery, together with continuous uninterrupted possession, occupation, settlement, cultivation together with hunting, gathering, foraging or fishing on the adjoining reefs, would constitute the best possible grounds on which any claim to coastal lands by saltwater or bush people, could be substantiated. Not all these elements are always present, and possession, especially exclusive possession, is rather hard to prove. These, however, are matters for the courts or else a formal process of adjudication to decide. The latter will be further referred to in Chapter XIV.

Tikopian and Gilbertese Resettlement

41. Hurricane damage followed by drought, together with acute overpopulation, causes famine at periodic intervals in Tikopia. At such times violence is common, and the traditional power and influence of the chiefs are strained. Long term and immediate remedial measures are very expensive, and sometimes useless, because of the isolated position of Tikopia. Added to this, the people have low resistance to disease, and epidemics are frequent and severe despite all practicable precautions. Such epidemics are aggravated by the lack of adequate reserve food supplies.

42. Following upon a variety of tentative resettlement proposals made intermittently over the past thirty years or so, in 1956 a pilot scheme was approved to establish a small Tikopia village of 30 families in the Russell islands. The scheme is operating in conjunction with Levers Pacific Plantations Pty. Limited, who during the past four years have employed Tikopia as labourers on their West bay estate. The company values the Tikopia as employees, and is anxious to establish villages adjacent to other estates. Nufero, the site of the present scheme is at the head of West bay about two miles distant by canoe. The land, some 75 acres in extent, was held by Levers on long lease from the Crown, and has been surrendered to Government. Government intends making the land available to the Tikopia under section 6 of the Land Regulation which states:-

"The Commissioner may at any time set apart any public land for

occupation by natives on such terms and conditions as having regard to all the circumstances of the case, he may consider fair and reasonable."

The subdivision of the land on the ground is to be left to the Tikopia themselves.

43. During the past year an advance party of about 20 men, most of whom are single, have been employed in building houses, clearing and planting the land in preparation for the arrival of families and relatives from Tikopia. With excellent soil and using their traditional intensive cultivation methods - foreign to most Solomon Islanders - the results are spectacular. Besides coconuts, breadfruit and betel nut, the settlers have planted yam, cassava, sweet potato, taro, and a wide range of European vegetables and fruit. Approximately 30 to 35 acres are already under intensive cultivation. The area is divided by a wide road which weaves down the centre; on one side, the cultivations planted by the advance party as a group are to feed new settlers as they arrive and until their own plots are producing; on the other side, the individual plots are for the support of each man and his family.

44. It is now intended that for the time being the settlement will be of a semi-permanent nature only. Nufero will be built up to a total of 30 families some of whom, from time to time, will return to Tikopia and be replaced by others. In the event of a further famine in Tikopia, it can be expanded rapidly. The reason is that when it came to the point, the settlers were reluctant to break all ties with Tikopia. They have insisted that social responsibilities require their periodic return to their homeland. Therefore, in the meantime, land interests in Tikopia will be used by close relatives but will not be extinguished. To this end the Tikopia chiefs have decided that in a family of four brothers, two will be allowed to settle at Nufero. The two remaining in Tikopia will use the interests of the absentees which will be maintained alive. The passage of time and the steady development of Nufero, will perhaps result in the settlement being regarded as a new and permanent Tikopia. Any insistence on immediate extinction of land interests in Tikopia would have killed the settlement immediately. The compromise, unsatisfactory as it may be, offers a reasonable chance for its survival.

45. Land hunger in the Gilbert & Ellice Islands has forced the Colony government to seek land for settlement outside the Colony. After examining all possibilities and taking all circumstances into consideration, the Western Pacific High Commission has recently determined on a policy of settling land hungry people of the Colony in the underpopulated Solomon Islands. Following the visit of a Gilbertese pilot party, in 1954, land was selected at Titiana, Gizo, which is part of the block of waste land occupied by Government since 1899. Up to the end of May, 1957, 150 Gilbertese men, women and children had been settled at Titiana. The size of the settlement will be limited eventually; thereafter new settlements will be

established which for general administrative reasons, particularly the need for close medical supervision in the early stages, will be situated within convenient reach of Gizo.

46. The Gilbertese are more intensely land conscious than Solomon Islanders; but through force of circumstances, put this land to greater productive use. Land is held on an individual or family basis. Following upon the protracted work of the Colony Lands Commission, during which many thousands of titles have been adjudicated and registered, legislation has been enacted to provide that titles in native lands registered by the Commission or subsequently by the Court, shall be indefeasible. Migrants are, therefore, acutely concerned about future tenure arrangements in the new settlements. This is especially so, because titles in their home lands are to be extinguished or surrendered when they have been absent from the Colony for more than five years.

47. In the immediate circumstances, the land at Gizo is to be made available to the settlers on a similar basis to the Tikopia settlement at Nufero, that is by the Commissioner of Lands exercising powers under section 6 of the present legislation. The precise terms have not been worked out, but it is intended that the land will be reserved in perpetuity to the Gilbertese settlers. The actual subdivision on the ground will be carried out by a Gilbertese Land Committee.

48. A Gilbertese subsists primarily as a fisherman, a cutter of toddy (sap bled from the bound flower spathe of the coconut tree), a consumer of coconuts, and to a limited extent, cultivator of babai, a species of taro. He is not a tiller of the soil like the Solomon Islander; the clearing of jungle he finds exhausting; walking the tracks of jungle covered hills is an agony. Without adequate coconuts and fish which can be readily caught by Gilbertese techniques, life becomes a burden. With this conditioning, but with a willingness to learn techniques of subsisting in a new environment, the Gilbertese have developed their settlement under the guidance of a traditional leader advised by Government administrative and technical officers. They have been engaged in clearing the land, building houses, planting cultivations, fishing, and other pursuits connected with their support, including labouring at Gizo, gathering trochus shell, and weaving baskets and mats for sale. They have erected a Maneaba, or meeting house, which by Solomon Island standards is outstanding but by Gilbertese standards is, perhaps, not particularly startling.

49. The foreshore of the settlement has been divided by the Land Committee into 48 village allotments of an average size of just under a half acre each. Each allotment carries a house of about 18 feet square. The rest of the allotment is planted with a scattered profusion of sweet potatoes, paw paw, cassava, bananas, sugar cane, a little taro, a few Gilbertese plants and odd coconuts. These allotments are not intensively cultivated, the soil being very light and sandy. A five acre plot of sweet potatoes, cassava, tapioca, yams,

bananas, and cabbage has been cultivated ready for the next 25 new settlers to arrive. In addition, the settlement has access to the Gizo coconut plantation of Nusabaruku which the Land Committee has subdivided on the basis of 10 palms per family. It is understood that in the Colony a poor family would have at least 50. At the rear of Titiana is a further area of mainly hilly land which the Land Committee is to subdivide into family allotments for the planting of coconuts and general crops. No decision has yet been taken on the ultimate size of the Titiana settlement.

50. Apart from Tikopia and Gilbertese resettlement, proposals have been made at various times that people from Rennell and Bellona might be resettled somewhere in the Central or Western Solomons because isolation, causing psychological collapse, is leading to debility and disease. Suggestions have been made that Sikaiana is overpopulated, and with growing land hunger the people should also be resettled. Although the Commission did not visit Sikaiana, the facts appear to support the theory. The Senior Geologist has stated that volcanic activity on Savo could at any time advance to such an extent that the population would be in acute danger in the event of eruption. This would cause a major resettlement problem. The need for a suburban population in Honiara has resulted in the tentative suggestion that Malaita people should be resettled in the vicinity. Finally, the observations of this Commission have persuaded it to the view, that having regard to the present rate of population increase, and unless a radical change is made in the present system of agriculture, land hunger could develop during the course of the next two generations in the following places:-

- (a) the Reef islands, particularly the outlying islands of Nupani, Nukapu and Pileni;
- (b) Santa Ana;
- (c) Lau lagoon and Langa Langa lagoon islands, Malaita;
- (d) Nonosila and Kwi, Malaita;
- (e) Wolande and Fanilei; and possibly
- (f) Savo.

51. Outlets for the Reef islanders may exist on Ndeni; the Santa Ana people might work out a satisfactory solution somewhere on the mainland of San Cristobal; Lau and Langa Langa may resolve their difficulties in Western Kwara'ae and on the north west coast of Malaita; surplus population on Nonosila and Kwi may settle on Leili or the coasts of Eastern Kwara'ae, while Wolande and Fanilei might resolve their difficulties with the mainland people of Small Malaita. Savo and Sikaiana have no natural outlet; nor have Rennell and Bellona, though there the problem does not seem to stem from land.

52. The Commission is of the opinion, from the land tenure point of view, (though obviously other considerations must be taken into account) that all resettlement should be regarded as an overall problem which must not be nibbled at but which must be worked out on long term principles. Resettlement should be controlled by Government. With this in view, it is recommended that agreement should be reached on general principles which should govern policy for 20 years ahead.

53. To this end, Government should have at its disposal accurate and relative facts which must be kept up to date. It is important that in the case of Gilbertese resettlement, having regard to all the factors, including the natural rate of population increase and the contracting economic potential of the Colony, the Protectorate should know what numbers it will be conceivably necessary for the Colony to resettle over the next 20 years. In the case of Tikopia, Government should ascertain at what date in the future - having regard to a further improvement in land utilisation, and population losses from disease, famine, and natural emigration - the island will cease to support itself beyond bare subsistence, and at what rate controlled resettlement should take place over the next so many years to avoid such a situation. Finally, in the cases of places in the Protectorate where land hunger could develop, the Government should carry out investigations to determine the nature of land resources at present available; how long they are likely to be sufficient, having regard to normal land outlets and the natural rate of population increase; whether this time factor can be extended by improved agricultural techniques; and at what stage it will be necessary for controlled resettlement to be carried out, and at what rate. Briefly, what is required is accurate forecasting of population trends related to land and food resources in terms of land tenure and agricultural techniques. It should then be possible to assess what measures are necessary to deal with possible land hunger, including improvement in the tenure system or in agricultural methods.

54. As far as the Protectorate is concerned, the Commission is of the opinion that priorities should be determined in consultation with the District Commissioners. Having decided these, the surveys should be completed within the five year period 1959 to 1963. If they cannot be managed within the limits of local staffing arrangements, the assistance of the specialised agencies of the South Pacific Commission or the United Nations should be sought. From the information which is obtained it should then be possible to prepare a long term resettlement programme, knowing that foreseeable eventualities have been taken into account.

55. The land tenure arrangements to be applied in the case of resettlement lands will be set out in Chapter XIV.

Landlordism

56. It is difficult now to reconstruct the precise nature of

the material obligations between chiefs and people in pre-protection times. It is certain, however, that formal tribute was not exacted on the same lines as by the Emirs of Northern Nigeria; nor did the chiefs command services of the same magnitude as the chiefs of Fiji. Above all, interests in land did not depend on the will of a chief, but rather on membership of a group. So long as the Solomon Island chiefs could retain their status and power as organisers of land and labour, as initiators of feasts and ceremonies, and in some cases as interceders with the spirits, then so long did the people assist their enterprises, supply them with presents of food, fight their battles, supply them with wives and co-operate generally. Tribute, if it can be called that, was not measured in terms of land occupied, or crops grown. Immigrants, strangers, and landless persons, if not killed, were allocated land by chiefs of lines and as marriage and integration took place, often became primary interest holders.

57. Today chiefs, headmen, political leaders and Palubatu (Roviana = leading citizens) command services in proportion to their political or economic influence, their status and prestige in relationship to the different sections of the non-native community, and sometimes in direct proportion to their rejection of such communities. The people provide services and assistance, precisely gauged in terms of expectation of material return or ascent on status. Money is lent or "given", labour performed, food is presented or provided and in times of political trouble, support is lent by physical means. Such services are provided as a form of investment with expectation of reciprocation. The deeper the investor becomes involved the more reluctant he is to withdraw, because unfortunately his "investment" has a limited liquidity. Furthermore, having sunk all his assets in one basket, his prestige and reputation are at stake. In a Solomon Island society, it is far more unpleasant to go bankrupt than in a European society! Apart from that, the appropriate magical processes, if performed diligently might rehabilitate the fading gold mine.

58. These remarks are preliminary to the statement that no problem of landlordism exists at present. There are, however, a few elements in the tenure system which indicate something of the lines on which a landlord-tenant problem between Solomon Islanders might develop. Although once primary interest holders loaned their land to immigrants and strangers and other landless persons, and these were permitted to cultivate subsistence crops and plant economic trees, including coconuts, today the latter right has been withdrawn. In some cases the primary interest holders are attempting to deny their "tenants" interests in cash crop trees planted before the war. Second, there is the tendency on Malaita for indigenous lines to evict immigrant lines from lands which they have occupied for many generations. Third, on the same island, there is the development of the "interest land" and the concept that persons requiring land for economic development should pay the owners a considerable proportion of the profits to work it. Allied with this, is the attitude of other lines and individuals which possess extensive and valuable coastal lands, do not use them, and refuse to make them available to

others. Fourth, in the Western Solomons and parts of Isabel, a few sharecroppers - men who usually have no coconut groves of their own - are employed on the basis of a fifty-fifty division of the proceeds. Finally, Solomon Island leaders show a tendency to exaggerate their powers to levy food for hospitality purposes. Persons attending meetings, travelling on long journeys or visiting relatives, together with strangers, visitors generally and other enforced guests are fed and given shelter, providing they are in fact without food and providing they do not stay too long. The kindness and material aid given to Allied servicemen during the war who became separated from their units, is well known and justly recognised. But during the political troubles on Malaita, both capacity and generosity were extended. The persons who gathered for political meetings in large numbers, month after month, all had to be fed. They seldom brought much food with them and the political "farms" were soon exhausted. Political leaders strained the system of reciprocal obligations to breaking point. When this was reached, threats were spread to the effect that failure to provide food was traitorous to the movement. When Marching Rule overthrew all opposition, those who failed to provide food would be deprived of their lands. This verged closely on extorted tribute.

59. All these elements suggest that as the population increases and the cash economy becomes even more widely established, social change might result in a landlord-tenant problem. This already applies in the case of the recent emergence of Solomon Islanders as employers of labour; not many exist at present, but the number is increasing. Wages paid are generally low; hours are long; rationing is poor and housing is particularly sketchy. The employer attempts to play it according to custom, and keeps his overheads low. The employee accepts it because he can earn a few shillings without having to leave his own island. The Labour Regulation is not enforced in the case of Solomon Island employers. They are thus in a favoured position. It is not sufficient merely to protect natives from Europeans; it is also necessary to protect the Solomon Islander, as an individual, from his more sophisticated country-man.

60. For the present, it is not considered that any legislative measures are necessary to deal with landlord/tenant relationship. Where disputes or injustices occur, it will be for the courts to protect both landlord and tenant in terms of custom, where this can be determined, or if not, presumably in accordance with English law. But the position must be closely watched, and more information is necessary than is at present available, particularly as it affects immigrants and strangers who have established long term secondary interests in land in the form of permanent cash crop trees. It is recommended that early steps should be taken to consult the local Land Committees on the matter. These committees should also be invited to keep a close watch on the position and advise Government on any local rules which should be applied if circumstances warrant it.

61. A landlord-tenant problem between Europeans and Solomon

Islanders does not exist in any tangible form either. Messrs. Levers Pacific Plantations Pty. Ltd. have from time to time suggested schemes for settling tenant farmers on their present coconut estates, or else for the purpose of opening up new estates with different crops. In every case, the proposal has been made because of difficulties over the supply of labour. Government has given serious consideration to such proposals and has encouraged them, but few have advanced past the initial planning stage. Attempts have been made by both Levers and private European planters to settle odd families on estates, but they have not been a success. The families may settle for a period, but the arrangements are informal, and seldom last any length of time. Principally this is because, with the exception of Tikopia, land hunger as it is understood elsewhere scarcely exists. The Solomon Islander is a kind of gentleman farmer who can always exist on his own land. This is not to say however, that he will not one day prefer to be a tenant farmer, rather than an indentured labourer.

62. Just before the first World War, and immediately afterwards, when the price of copra was high and potential planters were plentiful, Solomon Islanders used to permit Europeans to gather coconuts and ivory nuts from their groves under the legislative arrangements still extant in the Produce Regulation (Cap 56). After the second World War, when copra was a high price and European managers were scarce, the share cropping system was introduced on many properties. The basic reasons were as follows:-

- (a) lack of confidence in the Protectorate's general economic policy;
- (b) insufficiency of capital consequent upon war destruction, the deterioration of the estates, the non-payment of war damage compensation and the need for planters to reap quick profits;
- (c) shortage of labour in consequence of political events on Malaita;
- (d) spiralling overall costs;
- (e) lack of shipping which prevented the supply of basic rations;
- (f) unwillingness of labour to accept the pre-war indenture system;
- (g) the collapse of the pre-war recruiting system.

63. Share cropping operated on the basis either of a fixed payment per ton of copra produced, or on a percentage of the net proceeds. The leader of the croppers divided the payment price among the workers. In some cases, the plantation owner took up to two thirds of the gross proceeds. Despite the fact that plantations

were seldom brushed and coconuts were skimmed out, owners found that with less overheads and supervisory responsibilities, the profits made were satisfactory. Croppers, on the other hand, found it convenient to work at their own pace. Apart from the fact that this technique wasted the asset and nothing was put back into the plantation, the following effects were noted:-

- (a) The system led to disputes over proceeds, repatriation, housing and rationing. Normally the croppers were expected to construct their own houses and ration themselves.
- (b) Since none of the arrangements were subject to any formal written agreements between landlord and croppers, and as neither the Labour Regulation nor any other legislation provided for share cropping, District Commissioners were powerless to intervene.

64. The circumstances which created this situation have largely adjusted themselves, and most plantations are now operated on the wage and ration system. It still exists, however, in certain areas, particularly Guadalcanar and some parts of the Western Solomons. Since permanent settlement does not occur and indeed the share croppers never contemplate it, the problem, apart from questions of good or bad land usage, appears to be one which can be better approached through the Labour Regulation. At the same time, the system is well established and if it should happen that a major change in social conditions occurs, as for example, a loosening of control over aliens' land holding share cropping might become widely established and create a distinct land tenure problem.

Multiple Ownership and Subdivision

65. It will now be clear that multiple ownership, that is, many persons holding varying interests in the one land, is a general characteristic of Solomon Island land tenure. Usually, this leads to fragmentation, if the land held by a group is actually subdivided on the ground into individual plots, which as inheritance proceeds results in increasingly smaller plots. But when land is plentiful and the population is stable, even if subdivision does occur, an immediate problem does not necessarily arise.

66. Subdivision has not occurred to any apparent or marked degree. It is found in the Reef islands, where population pressure forced its emergence many generations ago. It occurs on Parara island, Wana Wana lagoon where the chiefs resorted to it following the recovery of these lands from Levers during the first Lands Commission (Native Claim No. 31). In the Reefs, there is a realisation that plots are getting smaller with each generation. This has not been brought home to any marked extent, since little copra has been made in the Reefs during the past 12 years owing to shipping difficulties, and the people have not felt the effects of competitive cash cropping. In the Wana Wana, the circumstances which gave rise to subdivision are largely forgotten.

Besides Parara island, the people have many lagoon islands thickly planted with coconuts, and despite increases in population land at present is sufficient for all needs. The main effect of subdivision has been to establish a rigid inheritance system, and to limit the possibility of immigrants or strangers acquiring primary interests through marriage or any other means.

67. Isolated small areas of land have been subdivided between the members of lines, in all parts of the Protectorate and particularly Santa Ana and Isabel. Where European plantations have been resumed because of expiry of the lease or failure to pay rent, subdivision has usually proceeded immediately. Such subdivision is sometimes the subject of litigation, as was the case of Boligaulo plantation on Savo. The Gilbertese settlers at Gizo are particularly anxious to subdivide their land into family plots, and this has been discussed in a previous section.

68. Apart from the above instances there has been no occasion for widespread subdivision, nor is there any general demand for it. The reasons for this are as follows:-

- (a) land is generally plentiful and up to 20 years ago the population had been in decline;
- (b) individualism of interests is so widespread that many people, in any case, regard the land in which the individual interests lie as being in fact held on an individual basis;
- (c) the customary system provides means whereby individuals can "buy out" from the group all residuary interests and thereby obtain an individual customary title;
- (d) as far as cash crop trees are concerned, the customary system permits group interest in the land and individual interest in the trees;
- (e) among the more conservative political leaders, the fear is often expressed that subdivision would make alienation easier; (In the case of Parara island, Wana Wana, the people subdivided because it was believed that their failure to prove other claims completely, i.e. Arundel and Woodford islands, was due to basing their claim on group ownership).
- (f) hitherto there has been no reason to charge land.

69. The main danger of multiple ownership is that it can prevent agreement being reached in respect of the effective and productive use of land, besides obstructing transactions. It can also cause ludicrous entries in any land register, in the form of minute shares. This is already apparent in the case of certain native leases in which several persons are listed as co-owners. Rentals are atomised, and this accounts partly for the belief that rental rates are

exorbitantly small. While multiple ownership will persist in the Protectorate for at least another generation, many individuals who have identified themselves with the cash economy are reacting strongly against the principle. It is probable however, that a demand for subdivision will grow, and the inherent dangers must be watched.

Fragmentation

70. Fragmentation occurs when holdings are broken down into units which are less than an economic size. This is something that is not easy to determine and will vary considerably between societies, islands and from time to time. Thus, the man who has practised shifting agriculture all his life in say, Central Guadalcanar, if forced to live on Tikopia, might find that the plots he would be allocated are not of an economic size to provide adequately for his subsistence. In time, however, he would learn the necessary technique. It is important that fragmentation should be distinguished from dispersal of holdings or interests of economic size which is due to geographical, agricultural and social reasons. This is normal and common in the Protectorate. The essential characteristic of a "fragment" is that its smallness is positively harmful to its effective use.

71. At present there is no general fragmentation problem in the Protectorate. It is unlikely to arise until (a) the population increases prodigiously, and (b) subdivision among individuals of group held lands becomes general. It is most likely to occur first in the Reef islands. As population increases further subdivision of already subdivided plots will occur, and fragmentation could emerge as a serious problem. If however, as it seems likely, the people develop their already established interests in northern Ndeni, difficulties might be avoided. In the case of Santa Ana and the Wana Wana it is unlikely that a real problem will occur for several generations, though on the former island a steadily increasing demand will be made for an outlet to the mainland. Lastly, it can be said a fragmentation problem is more likely to emerge in coastal areas where the population is at present relatively dense, and where alienation of nearby coastal lands has been extensive. Maringe lagoon, Roviana lagoon, and the north coast of Guadalcanar are the more likely places.

72. One or two cases have occurred of groups acquiring a title in lands which were formerly alienated to Europeans. The freehold property of Simbilando (L.R. 26) has been acquired by the Vella Lavella Council on behalf of the trustees of the Simbilando people, who paid the purchase price. Emu harbour, a property leased by the Crown to Burns Philp & Co. Ltd., was purchased from the latter and made available by lease to the representatives of a group of Ganongga people whose villages and lands had been partially destroyed by earthquake. In both cases, the people themselves have arranged subdivision of a proportion of the main assets, namely the coconut groves. Fragmentation could occur if further subdivision takes

place. It would be as well for this to be kept in mind when the time comes for a review of the present arrangements.

73. While provision might be made in the agreements for minimum sized plots this is usually unpopular. It is more desirable to provide administrative advice on measures which could be taken by people themselves to anticipate future difficulties. Since in both cases unplanted land is available, it could be suggested to the trustees or the representatives that before subdivision proceeds further, each man should attempt to plant an additional coconut grove of adequate size for each son beyond the first. Only a limited quantity of land can be planted with coconuts since a proportion is required for cultivation purposes. For this reason, the size of the settlements should not be allowed to increase beyond their capacity. To arrive at the optimum capacity and the minimum to which subdivision should proceed, an agricultural survey is necessary. Rules to prevent fragmentation are all very well, but administrative action to prevent it happening is more effective. In general, it is recommended that in future agricultural survey should precede actual settlement to determine precisely the population which the land will support.

74. In the case of small properties of public land leased to individuals, subdivision following each generation could cause fragmentation and extinguish the economic value of the property. To this end, it is desirable to make provision in lease agreements which will prevent a lease being subdivided into uneconomic units. The best way to do this is by a clause in the lease limiting the co-owners to a specific number, say three, four or five, depending on the size of the property and its economic value.

Land Tenure and the Political Movements

75. Brief references have already been made to the various political movements which have occurred in the Protectorate since the Pacific War. In this section, it is proposed to give some description of the inter-relationship of the movements and land tenure in the different islands, and to make some assessment of the more discernible and lasting effects. It is unnecessary to describe these movements, since an extensive literature already exists on the subject. While little agreement is to be found on their nature and cause, the circumstances are widely known; none are without the element of cult; all had to be treated as political movements.

76. The achievement of apparently unattainable ends, combined with the performance of a series of unrelated tasks, consuming of time and property - all stimulated by prophesy - underlie a great many Solomon Island myths and legends. These characteristics are also found in the cults and movements. The people are persuaded by the leaders and prophets to invest their resources in the movement; the leaders mortgage their promises; a vicious inflationary circle is set up in which investor and banker become deeper in one another's debt and neither can break free.

77. The Bulu movements of Kwara'ae, the first of which is said to have occurred in the latter part of last century and the second about twenty five years later, are classic examples. In the first, a woman prophet promised the return of dead, providing the people built her a magnificent house with plaited bamboo. The house was built. The dead did not appear. Successively, they were persuaded to build more houses, construct wide roads to the house, keep the roads perfectly brushed, and to provide endless feasts - but the dead did not appear. Eventually, worn out by their exertions and without adequate food, disease wiped out the community.

78. The second took much the same form. This time, the Bulu was a spirit who prophesied and commanded through two men. The Bulu promised riches, money, rifles, cartridges and cargo and demanded the prior provision of elaborate sacrifices, feasts and gifts or primitive money. He commanded the construction of wooden effigies of birds set up on poles in each village. These birds, the Bulu said, would deliver the cargo. When none arrived, the Bulu successively required the construction of roads, canoes, cargo houses, and wharves. Eventually the people mocked the Bulu. The two men died and the people gave up paganism and joined the mission.

79. In successive religious cults of pre-war years, the promise of the millenium required the prior destruction and consumption of crops and livestock and the cessation of all cultivating. The Fallowes movement of Ysabel and Florida required elaborate organisation and collection of funds as a preliminary to the grant of a parliament and freedom.

80. Turning now to the post war period, the Marching Rule movement on Malaita and Ulawa promised cargo, the return of the Americans' high wages, and the eventual demise of the British administration. It commanded the establishment of "banks", the cultivation of "union" farms, and the constructions of "towns". It required people to contribute more or less equally to the "banks" which eventually amounting to considerable sums, were simply buried in the ground. Several lines were expected to provide the land for the farms. These were partly in emulation of the American food production units, and partly to produce food to feed the large political meetings which gathered. Huge areas were meticulously cleared and planted under the direction of land and farmer "chiefs". Elderly people died under conditions of forced labour and in the unaccustomed heat, since ordinary cultivations always had some shade. Pests had a field day and devoured a large proportion of the crops. Eventually, they were abandoned, though the idea remained.

81. Land on the coasts was set aside for the elaborate towns. Valuable groves of coconuts were cleared to make way for them. The towns were to concentrate the people for political activity, to await the arrival of the Americans and the cargo, to "defend" Malaita, and to prove that the island was densely populated. The "towns" included "custom" houses (political halls), cargo sheds and

stacks of firewood to be lit when the cargo ships were sighted. Later they were fenced. Guard or tower houses and elaborate entrances were also built. Most have now disappeared. A few became permanent and a cause of land disputes. In all these activities, the people kept meticulous accounts of time, materials and resources "invested". Claims for compensation are still made.

82. At the same time the movement insisted on the exaggerated value of natural resources. Water and sand for European ships would be supplied only on payment. The use of anchorages was to be "bought". Rents for leases were not to be accepted. Past land alienations were to be ignored or disputed. Applications to lease land were resisted. It taught the significance of the newly created flag as a symbol of independence, for in Kwara'ae it was said the first ancestor carried a flag and a bundle of sticks. While pretending not to be opposed to the Government, economic, political and social policies were condemned as oppressive "colonialism".

83. Above all, this movement advocated the return to custom. The myth was propagated that before the whiteman introduced rifles and cartridges, the rule of custom had created a perfect state of nature; this was pictured much as Rousseau and the Victorian thinker visualised savage communities - as paragons of social order. Custom was examined in detail; forgotten custom was resuscitated; new custom was created. Custom was to be lord of creation, including the Marching Rule. If the aged had forgotten, or the significance had been lost, that was irrelevant. Custom was laboriously written down. Much of it had no practical value; but it was to be the basis of a definition of land boundaries, interests and genealogies. Thousands of the latter were inscribed into exercise books to cause a fester of later trouble. But the most vicious aspect was the establishment of illegal "custom" courts which usurped the functions of the Native Courts and defied the higher courts. Such courts heard many native land claims and disputes.

84. All this was cloaked with an outward appearance of progress, which, while undoubtedly reflecting the basic needs of the people, was gradually lost to sight in the spiral of inflation. The penalty for non-adherence was deprivation of lands and ultimate slavery. There were few who could renounce the pressure of reciprocal obligations and stand aside.

85. The Federal Council movement which assumed the cloak of the Marching Rule when the latter became discredited, was less positive although the investment demanded was similar. Freedom and independence were promised, but in a vacuum. It discounted cargo as ridiculous. Its accusations against European exploitation of land, labour and resources were penetrating. It insisted that Government's policy of economic rehabilitation for Malaita - cocoa, copra, rice, shell and storekeeping - was oppressive colonialism, and prophesied evil consequences for its followers. In particular, cocoa planters were told that the Government would claim title in the trees and the land would be seized.

86. In Florida, the principles were the same, but the emphasis was slightly different. During the war contributions of money, food and curios were presented to American officers. These were given to the American Red Cross. The Nggelese, having already approved of the Americans, made the wish the father to the thought, and concluded that the American Red Cross had replaced the Government. In making this and subsequent presents, the people conceived that they were entrusting themselves and their lands to new leaders. In this is reflected the customary method of recognising a new leader. Those who refused to contribute were threatened with deprivation of lands and banishment. The people were disconcerted when the Americans, realising what was in their minds, refused further gifts. Subsequent attempts to "buy" over the Americans failed. Government intervened and the money was redistributed. Their attitude hardened towards Government, for interfering in what was regarded as a right to choose their own leaders. The Marching Rule was quickly taken up in Florida. The Americans were openly declared to be their leaders and further collections were made. Non-co-operation with Government became firmly fixed. Any interest expressed by Government in land affairs was particularly suspected.

87. In Ysabel, the Marching Rule took the form of the pre-war Fallowes movement, but persuaded against copra making and all dealings with Europeans. In Guadalcanar, the focus of the movement was on the selection of a king; it boycotted mining in the Gold Ridge area and declared against the exploitation of resources by Europeans. It was followed by the shortlived Belamataga Freedom movement which had economic ambitions, but followed the cult of the hero leader. It promised the eviction of Europeans from all plantations, proposed to set up an extensive hierarchical organisation which would include "land chiefs", and generally followed the Marching Rule postulates. A Marching Rule cell persisted in the Marau-Haumba area and took its time from Ariari. It preached alliance with the Malaita Council on racial grounds, and made extensive claims to land held by the Guadalcanar people.

88. In San Cristobal and Ulawa, where little land had been alienated, land consciousness which had scarcely developed, became crystallised. The movement promised the same as Malaita, and commanded the definition of land boundaries, the composition of genealogies, the enforcement of payment for felled trees for whatever purpose, payment for water and sand by Europeans, strict accounting for all materials invested in the movement, the establishment of big farms, and the non sale of produce to Europeans. Failure to adhere was punishable by deprivation of lands and reduction to servitude. Association with Government economic enterprises involved the penalties of dreaded "colonialism".

89. Nowhere else in the Protectorate did these movements and cults appear in any tangible form. They have now been largely discredited, although rumours of their persistence are manifest from time to time. Their effect on Solomon Island beliefs and concepts about land tenure are still obvious, and will be felt for many years

to come. The more lasting and deep rooted ones are summarised below. Possible counteracting measures are noted after each one, though more detailed proposals have been made generally in the body of this report.

- (a) Land and natural resources are believed to have an exaggerated liquid value unrelated to whether or not the land is worked.

This can be broken down only by patient explanation and example. Counteracting statements must be made firmly and frankly, and no opportunity should be lost in doing this. The Local Land Committees to be proposed should be a useful channel.

- (b) Union farms worked on a communal basis (frequently merely a form of forced labour) have a talismanic significance despite their unsuccessful results.

Unless the Agricultural Department can see any possibility of making such schemes work (and it seems unlikely that this is possible without introducing mechanical equipment, or unless such farms can be organised on proper co-operative lines), it is considered that, despite the advantage of the people doing something rather than nothing, they should be actively discouraged. Such farms are oppressive, unproductive and at variance with the developments in the tenure system. Farming on an individual or family basis should be actively encouraged.

- (c) New permanent cash crop trees are suspect since they are identified with the "colony".

As far as possible Solomon Islanders should be actively discouraged from planting permanent cash crop trees of any kind in land in which primary interests are not held.

- (d) Custom is distortable into any form to acquire control over coveted lands besides hindering Government land or agricultural policy, especially if it is directed on an individual basis.

This is, of course, a matter for the courts, but disputes do not always reach them. The greatest administrative care should be taken in offering general and unqualified approval of custom since this is taken to cover all custom. Care must also be taken in analysing the precise objections to policy on "customary" grounds.

- (e) Government concern in land is axiomatically interpreted as a sinister design to deprive the people of their land and convert the Protectorate to a "colony".

Government has tacitly avoided questions of native land policy until now. While it is hoped that this report will contribute to the formulation of policy, it is essential that discussions with the

people on land matters should be entered into openly and frankly. The institution of the Local Lands Committees should facilitate this. It might also be helpful if District Commissioners could be armed with a uniform guidance on how to deal with the "colony" issue.

- (f) Alienation of further land is to be resisted, and land already alienated should be resumed.

The remarks in respect of (e) apply. While it may be necessary to review the extent of land alienation in coastal areas at some future date, it is generally believed by Solomon Islanders that almost all land has been alienated to private Europeans and companies. It is believed that all alienated land has been sold outright and can never be recovered. Furthermore, it is also believed that land can still be alienated by sale. No opportunity should be lost to correct misapprehensions by frank statements of fact. It has been found among District Administration staff that apart from a hesitancy to concern themselves in land matters, the information available to them is limited. This report may help to relieve this in some measure, but it is essential that they should be kept closely in touch with the formulation of new policy and new developments in land tenure generally, especially in districts other than their own.

The Valuation of Land

90. Solomon Islanders do not value land in quite the same way as Europeans. They do not, for example, think of it as having a market price per acre or an unimproved value, or a value for rental purposes. Although signs exist that such concepts will gradually become accepted, the Solomon Islander still principally values his land in traditional terms; with some difficulty these can be analysed into social, political and economic elements but in fact, they are inextricably related.

91. Taking social elements first, the Solomon Islander values his land because primarily his interests in it derive from membership of a group; because it is the source of food for his subsistence and the maintenance of his kinship obligations; because it is a place of ritual; because his forefathers worked it and in most cases are buried in it; because the land is where he can enjoy privacy or, alternatively, where he participates in group activities; because events in his life and the lives of his immediate relatives are identified with the land; and finally because land use and familiarity makes him "love" his land.

92. For political reasons, he values his land because it gives him prestige and a sense of independence; because anyone else, whether European or Solomon Islander wanting to use the land must seek his permission first; because as a producer of cash crops, notice will be taken of him by Europeans, thus perhaps resulting in political preferment; because it entitles him to speak and to be heard when council is taken; and finally, because land has become one of the pivots of his political consciousness.

93. In general economic terms, he values his land for its arability, its accessibility and its productiveness, though many believe ~~this~~ to be controllable by magical devices. It may also be valued in terms of the goods, services or primitive money if transferred. Some Solomon Islanders value their land in terms of the number of coconut trees or nut trees growing on it, the number of plots actually planted, and even the amount of uncleared virgin forest in transition from secondary growth. Others again value it by the number of paces of sea frontage, while a great many refer to it simply as "plenty" or "little bit".

94. But this is not sufficient. Does the Solomon Islander value land in terms of money or other measurable utilities and if so, can this be assessed? This must be considered from two points of view - within the framework of the traditional economy and within that of the European cash economy. As regards the former, one approach might be to assess the value of land in terms of primitive money, either by valuing the produce grown or the amount of first fruits delivered in return for loan of interests, by equating the service for which land has been transferred in terms of primitive money, or simply by relating the prices paid in customary sales. Douglas L. Oliver³, who studied land tenure in north east Siuai, Southern Bougainville, attempted to relate land values to the local shell money which among the Siuai had fairly well defined values in terms of goods and services. He came to the conclusion "that there is no consistent method for assessing the economic as contrasted with the social value of Siuai land". He refers to criteria similar to the above, but states that these have but limited application. He goes on, "Land certainly has economic value to the Siuai; furthermore, there is a single factor, shell money - through which land values might conceivably be expressed. Yet the Siuai do not make consistent use of that factor, and as a result the economic value of all their land cannot be estimated, nor can the values of separate tracts be precisely compared."

95. While it is possible that detailed research on the lines which Mr. Oliver has carried out might reveal some differences, especially in North Malaita, it is considered that generally his conclusions are applicable to the Protectorate. This is especially so since although almost every society has some primitive monetary system - whether strings of shell molluscs, bark coils thatched with red feathers, circles of clam shells or mats - and although one or other of these constitutes a negotiable currency unit over comparatively wide areas, different societies place different values on their currency. These values are related to environment, resources, cultures and needs. For this reason, it is virtually impossible to measure primitive currency against land.

3. Douglas L. Oliver, "Studies in the Anthropology of Bougainville, Solomon Islands", Peabody Museum Papers Vols. XXIX Nos. 1 - 4, Cambridge, Mass. U.S.A. 1949. p. 96.

96. Turning now to economic values in terms of the European cash economy, one is on slightly firmer ground. It must be remembered, however, that such values have been introduced by Europeans, although traditional concepts have moulded them in some measure. In the first place, what is the cash value of land? Since Solomon Islanders are no longer permitted to sell land except to the Government, the limitations of such an assessment are immediately apparent. Furthermore, few Solomon Islanders have anything but a hazy idea of area measurement. In earlier years, land was sold at rates varying from a few pence up to 2/- per acre, though the vast majority of later sales were at the 2/- rate. Government purchased native land at this rate for many years, though in the late twenties native land was being assessed at 5/- per acre. No account was taken either of fertility or terrain. Today, Solomon Islanders regard all such rates as exploit prices.

97. Since the war, Solomon Islanders have placed a higher value on their land. Offered 7/6 for land required for Honiara, they appealed to the courts and were awarded £1 per acre for flat land and 8/- for hilly land. At Auki and Kira Kira, negotiated purchases resulted in prices of £1.13.4. and £2 per acre respectively. In 1951 a native member of Advisory Council asked whether the rental rate for native land could be increased. Eventually, in 1954 they were increased to the vicinity of 1/- per acre for hilly land, and 2/6 per acre for flat land. Since rents are generally assessed on the basis of five per cent on an estimated unimproved value, such rates assume an unimproved value of £1 and £2.10.0. per acre. Sites for trading posts have a higher value. These increasing values are reflected in some of the prices paid for land in transfers between Solomon Islanders. As a general principle, it can be said that today it would be most unusual for Solomon Islanders to accept a price for their land, of less than £1 per acre. Even so, few would be prepared to sell even at a greater price. They prefer to retain control and lease.

98. The following factors would seem to account for Solomon Islanders placing such a high value on their land in terms of the European cash economy:-

- (a) a general belief that prices paid in the past were unfairly low and that ignorance was exploited;
- (b) the general steady rise in price of all consumer goods and services;
- (c) the high price paid for copra and local produce generally;
- (d) the awareness of the value of coastal lands;
- (e) a marked interest in trading, together with an appreciation of the value of trading sites;
- (f) the effect of political movements;

(g) a frank reluctance to sell.

99. The Commission considers there is a real danger of Solomon Islanders being allowed to develop wholly unrealistic ideas about the value of their land, which eventually might interfere with economic development. For that reason, it is thought that through the Local Land Committees attention should be directed to the methods by which land is measured and valued, with special reference to such factors as accessibility, productiveness and fertility, all related to the cost of improvements. As suggested previously, particular emphasis should be placed on the fact that in an underdeveloped country such as this, land is relatively valueless unless it is made productive.

PART THREE

THE FUTURE TENURE

AND

DISPOSITION OF LAND

CIRCUMSTANCES AFFECTING THE PROBLEM

In Part One, the geographical, cultural and historical background to the customary tenure system was described. In Part Two, a detailed account was given of the system itself, together with some indication of the changes which are taking place. Where these seem to be following undesirable lines, suggestions have been made as to how they might be guided. In this chapter, it is proposed to refer to certain general circumstances, which the Commission feels should be taken into account, before outlining major recommendations for the future tenure and disposition of land.

The Problem of Ownership

2. Some care has been taken to avoid the use of the word "ownership". Instead, emphasis has been placed on the nature of interests and how they are held and transferred. The question of ownership must however, be faced. It is a confusing word, especially in connection with primitive land tenure systems, to which Europeans too often try to apply all the paraphernalia of English tenurial terms. As Lord Lugard¹ has pointed out, the term "ownership" when applied to land is relative even in England, where it is qualified by the right of Parliament to expropriate the owner if the land is required for some public purpose, such as a railway. In the Solomon Islands "ownership" is qualified not only by the legislation controlling the alienation of native land, but also by factors of geography, population distribution, and a whole series of complicated customary interests, claims, privileges, reciprocal obligations, a few Council resolutions and quite a lot of individualism. The precise meaning of ownership when carefully analysed is different in every tribal community and even between lines and land groups.

3. Nevertheless, Solomon Islanders have developed a general concept of ownership. This is, in large measure, due to the events described in Chapter III. It has been encouraged by the universal use of the word "owner" in pidgin English and has been stimulated especially by land consciousness. Briefly, the concept consists of a series of beliefs, namely, that all native land is "owned" by some Solomon Islander, regardless of whether or not any interests in the land are in fact exercised, that alienation to non-natives (including the Government) or expropriation by the Government must be accompanied by full payment (usually very exaggerated) and that wherever possible

1. Lord Lugard, "Dual Mandate in Africa". p.316

alienation should be resisted. Not every Solomon Islander consciously or unconsciously subscribes to this concept, but it receives very general support particularly in Malaita, Central and Western districts.

4. Nothing unusual exists in these attitudes, which are commonly found in most Colonial territories today. Whilst no one disputes that Solomon Islanders have established and, it is hoped, will continue to establish valuable and productive interests in a great proportion of coastal lands, the fact remains that a blanketing claim of total ownership to all land can neither be substantiated nor put to practical effect. Such a concept hinders economic development and is inequitable, having regard to land hunger that exists in the Protectorate and elsewhere in the British Pacific territories. It discourages progressive land use and debauches the people's sense of values. Finally, in this world of today, it creates a vacuum, which countries less fortunately endowed in land, but gravely overpopulated, might be tempted to fill. In brief, a passive policy of grim retention of ultimate ownership in all unalienated lands is not the proper accompaniment to demands for political, economic and social development. Such development is not derived from mere ownership of land. It is only access to land by people competent and willing to use and develop it on an economic basis that effects its productive use. The importance of stating these facts bluntly to Solomon Islanders cannot be over-emphasised.

5. Although the Government has become increasingly aware of the problem, particularly since the war, its administrative policy towards it, apart from setting up this Commission, has generally been negative. This is particularly apparent in connection with the alienation of native land. Enquiry is cursory, claims to "ownership" are accepted with little questioning, and the negotiations proceed. The nature of the interests, let alone the basis for them, are seldom examined. Less heed is paid to whether or not they are in fact exercised. At the same time, having carefully considered all legislation which has been enacted, together with available statements of public policy, the Commission is of the opinion that Government has never given any formal recognition to the principle that all native land is subject to native ownership.

6. As far as can be seen, a definition of customary ownership has not been the subject of specific pronouncement by the courts. If it has, no record can be found. However, a number of indirect references have been made. The first Lands Commissioner, Mr. Phillips², in reporting on the native claims against Levers in respect of their Certificate of Occupation over certain waste lands, has some pertinent things to say on the question of native ownership at a specific time. The following parts are quoted from paragraph XI:-

2. F. Beaumont Phillips, "Report on Native Claims Nos. 30-37". (Levers' Certificate of Occupation) pp.86-93.

NOTE - The Lands Commissioner's findings were subsequently validated by the procedure provided for under the Land Claims Regulation 1923, and presumably could be the subject of judicial notice.

"(1) In Paragraph VIII of this Report the general character of native occupation of land in the Western Solomons was described, and it was pointed out that, as the P.I.C. Certificate, and Lever's existing Certificate were granted under the Waste Lands Regulation, lands described in those Certificates as "unoccupied" may be taken to mean lands not "owned" "cultivated" or "occupied" by any natives or non-natives.

"(2) In this paragraph, I propose to define more closely the native occupation that must be proved to warrant the withdrawal, from the concession now held by Lever's, of all or any of the lands claimed by the natives, on the ground that such lands should not have been included therein in 1904:-

- (a) In the first place (and subject to the remarks in subparagraph (c) hereunder) the occupation that matters is occupation in 1904
- (b) In the second place, native "occupation" should not be defined in accordance with non-native standards, but due regard should be given to native ideas on the subject, so far, that is, as they are well established and tangible and their practical application is possible and reasonable.

As I have pointed out in paragraph VIII of this report, native occupation is much more discursive than non-native occupation. It is easier to define acts of native occupation than the areas over which they are performed. Take, for instance, the case of natives who twenty years ago, were living on the ground of their "line" and had not been forced to emigrate by inter-tribal warfare, etc. Clearly their "place", "their village", was "occupied" land. Clearly, too, their garden areas were "occupied" land, and I am of the opinion that the whole surrounding zone in which their existing garden sites stood (whether in use or in fallow) and in which they were likely at any time, following their custom, to make new gardens, must be regarded as "occupied" land. Outside the garden zone, however, there usually extended large areas which these natives did not, apparently, regard as exclusively the land of their line, but which they might or might not visit - visits usually depending on whether the land was "good place for huntem pig-pig", etc. To what extent may these areas be regarded as "occupied by natives"? The answer to that question can only depend, I consider, on the circumstances of each case, as disclosed by the evidence. If, for instance, it is only shown that individual natives once or twice in their lives visited such areas or that there was a possibility that at some uncertain

date natives might decide to visit these empty lands, I think it would be unreasonable to regard those areas as native land or land subject to native occupation.

- (c) Too great an insistence should not be placed, however, on "occupation in 1904". That is to say, because land may have appeared to a passer-by in 1904 to be vacant, it does not follow that it had not formerly been occupied by natives or that it had been definitely abandoned.

In this difficult case, it is necessary to distinguish between land that was unoccupied in 1904 by reason of the prior extinction of the tribe that once lived in it, land temporarily unoccupied in 1904 because the day had gone against the native owners thereof, but to which they intended to return and did return at the first opportunity, and land once occupied prior to 1904 by a tribe that had left or been forced to leave, but to which the living members have shown no disposition to return notwithstanding many years of the Pax Britannica.

Here again, decisions as to occupation can only be reached on a consideration of the circumstances of each case as proved.

Similarly, there is a distinction between the case of a tribe living for safety in the bush but habitually visiting the coast twenty years ago, and the case of a tribe that then was, and was likely to remain, purely a bush tribe but which has since, under the influence of the new peace and the general native movement toward the sea, taken up land on the beach.

In this connection I may here observe that there have been many refugees in the Western Solomons, and for sometime past there has been a tendency for some of these to drift back to the ancient holdings of their people. Where such natives claim to be living once more on the land of their forebears, however, it must be remembered that there is a temptation after so long an interval, and because of the emptiness of the land, to form exaggerated ideas as to the extent of the former holding of their "lines"; also tending to the formation of such ideas is the growing land sense, of the attitude of present-day natives toward land, an attitude somewhat different from that of the natives of twenty years ago, as I have explained in Paragraph VIII(14) ante

- (d) Another point of importance (though it was forgotten

occasionally during the Inquiry) is that the present claimants must definitely identify themselves in some way with the occupation on which they rely in challenging Lever's existing Certificate.

It is not sufficient, I consider, for the claimants merely to show that certain land was once occupied by natives years ago. There were instances at the Inquiry of lands being claimed by present day natives, who could only assert that those lands had once been inhabited by natives in the dim past because that was the tradition or because they had seen traces of such ancient occupation; they could give neither the names nor the "lines" of the former native occupiers, but apparently claimed these lands because they had perhaps visited them occasionally or because these lands were situated in the island they themselves lived in.

- (e) I should add that, in my opinion, the present day native claimants, in identifying themselves with the native occupation in 1904 on which they rely, must do so in a way that would have been recognised or permissible, in 1904. The native customs then in existence must be taken into account rather than new customs which may have arisen since then. An instance will best explain what I mean:- During the Inquiry, the living members of certain native tribes that were distinct, if not at enmity, and owned different lands in 1904, announced that they now wished those tribes to be regarded as one, as "one people" owning one territory. One obvious effect of such amalgamation is to give what were formerly scattered native groups occupying individual tracts of land, the appearance of being one huge tribe, or people, presumably owning and needing tremendous tracts of territory. In other words, the amalgamation now desired confuses the position of affairs as at 1904, and for that reason, I consider it must be ignored in the determination of the main question involved in the Lever cases, namely the extent of native occupation twenty years ago.

- (f) In support of their claims to land, the natives gave evidence, inter alia, of the user of such land for such purposes as pig-hunting, nutting, fishing, etc. To what extent activities of this kind mark land as native-owned or native occupied must depend on the facts in each case. For instance, it was customary for natives to go on long fishing expeditions, camping en route, and near the fishing grounds which might be a considerable distance from their houses: while such camping places may be occupied ground, it

does not necessarily follow that thousands of acres of neighbouring coastal and hinterland are therefore occupied"

7. Then in 1951, Mr. Judicial Commissioner Charles said in giving judgment in the case of *Hanasiki v. Symes* -

" But it seems to me that now, after this lapse of time, the law will follow the principle adopted by English law by saying on the one hand that, provided that a custom is proved, presumptively or otherwise, to have existed before 1893, it will be regarded conclusively as having been a custom of immemorial origin, and on the other hand, as the introduction of English law into the Protectorate precluded the creation of new customs after that event, the law will not recognise any custom which is proved not to have existed before 1893" "

8. This section of Mr. Charles' judgment can be linked with a judgment delivered in the New Zealand Native Land Court³ in 1892 -

" The tenure to land as it existed prior to the establishment of British Government in the Colony, and not since that event, is the test of ownership established, being the point of time fixed on at which the Native title became petrified, and all persons who are found to have been the actual possessors or owners of lands at that time must be regarded as the owners or possessors of those lands now. Possession alone, however, does not confer a right unless the occupation can be regarded as a consequence and this Take (right) must be consistent with the ordinary rules governing and defining Native custom."

9. Next, certain questions have been put to the Law Officers of the Protectorate in reference to Mr. Charles' judgment. In answer to one of these, it was pointed out in respect of custom that if any man could show the beginning of it, it was not good custom. Custom was static and its scope restricted to a particular locality. The opinion was then stated in respect of Section 10 of the Native Courts Regulation (Cap 30) as follows:-

"I think that the wording in section 10 (which is a common form of wording found in Native Courts legislation) means to make a distinction between "native law" and "native custom". In an island like Malaita, where before British administration the people were divided by language and warfare into segregated communities, it is difficult to imagine any native law existing analogous to the English common law. But since the early days of administration there has been intercourse between the peoples and unwritten understandings or conventions regulating their intercourse have arisen. It might be said that such is one of the sources of present native law".

10. In 1955, Mr. Deputy Commissioner Hearth in his judgment in the Bokolo Land Case (Malaita) said -

" Prior to 1917 when the defendants took the first steps to occupy the Bokolo area, coastal land was not inhabited by the bush people because of the incessant fighting and raids. The plaintiffs, though they had the predominant influence in the bush area behind Bokolo never at any time made use of the coastal land. There is therefore in the opinion of the Court no justification for their claim that the boundaries of their land extended down to the coast: far from exercising a predominant influence over the Bokolo land, they exercised no influence at all there. The situation was that in 1917 the land was vacant: there was a vacuum created by the fear of the bush people to move down to the coast and the absence of any saltwater people to take the land. Into this vacuum the defendants, themselves bush people from neighbouring land, entered and took possession. The plaintiffs could have done so, but they did not Even had the plaintiffs been able to show that prior to the original occupation by the defendants they had exercised a predominant influence in the Bokolo area, I would find that in the ensuing years they had foregone that influence, and any rights arising from it, through their failure to take steps to enforce it."

11. Finally, on the exact legal nature of interests in customary land, there is an Australian judicial decision in respect of a New Guinea case, in which the High Court observed that such interests are no smaller in scope and no less beneficial than the rights of ownership possessed by Europeans owning freehold land. In Geita Sebea's case, the Court held that native title to the Kila Kila aerodrome site near Port Moresby was "a communal usufructuary occupation with a perpetual right of possession in the community equivalent to full ownership."

12. Extracts from these judgments and opinions have been quoted at some length because they constitute the little judicial capital related to the problem of ownership in native land in this part of the Pacific. It is not the duty of this Commission to say what the law is, but it seems important to set down some of the principal elements of ownership, as they emerge from the above, and have become obvious during the Commission's investigations. These are as follows:-

- (a) The establishment and exercise of a primary interest based on either discovery, conquest, inheritance, or some form of customary transfer including sale.
- (b) Continuous possession and occupation by residence, cultivation (including the cultivation of permanent cash crop economic trees even planted comparatively recently),

3. Judges Mackay and Scammell, 1892, C.J.M.B. Wellington District - Mangaohane Block

hunting, gathering, and if appropriate, fishing, under the primary interest in accordance with native custom as it existed prior to 1893 or under native law since then. In the case of absentees such interests must be kept "alive" by the acts of an appointed relative or the land authority.

- (c) Recognition of such interests by people generally living in the locality, together with the fact that occupation and possession have long been undisturbed.

In any claims to ownership, the fact that prior consent to occupation had at any time in the past been obtained would constitute a strong presumptive rebuttal.

13. The land over which ownership is exercised, would include:-

- (a) residential and settlement sites;
- (b) cultivations and fallow lands which have been cultivated regularly in the past and will be cultivated again in the future;
- (c) land on which permanent cash crop economic trees are cultivated for productive purposes;
- (d) bush lands which are regularly and continuously visited for hunting, gathering, fishing and the such like, and which are required for future cultivation.

In respect of (d), it would not include areas which are seldom visited, which might be visited at some unknown time in the future, or might never be visited at all. The emphasis on all these elements is continuity and certainty.

The Present Nature of Native Law and Custom

14. The apparent consequence of Mr. Charles' judgment, quoted in the previous section, was that it froze native custom at the year 1893. In other words, any custom which had evolved since that date was not good at law. But the opinion of the Protectorate's Law Officers, also quoted in the previous section, suggests that the wording of section 10 of the Native Courts Regulation, in referring to "native law" provides for the evolution of certain "unwritten understandings or conventions" since 1893 - namely the continued evolution of native custom.

15. Such as opinion does little more than indicate how the Courts might regard current changes and innovations in customary tenure. It has no force in law and consequently its practical value is limited. As the law stands at present, custom stood still at 1893. This is far from satisfactory, for not only does it not allow for the fact that certain parts of the Protectorate did not

come into being until 1900, but what is more difficult is that it pays no regard to the all important fact that in many places such as the Santa Cruz group, Malaita, Rennell, Bellona and others, the law was not applied until very much later for a whole variety of reasons. But, in fairness to the law, can a date now be fixed when it can be said, in all honesty, that that was when the flag (in the practical sense) actually came? The answer is, no. The year 1893 must stand. However, this does not help the administrator, and as years go by the position will become more complicated.

16. Turning now to the administrative status of native law and custom, sufficient has been said to show that today "native law and custom" mean a great number of different things to different groups in different islands. However, it seems that while it is still the basis of social relationships, several characteristics have attached themselves to it. These are as follows:-

- (a) that it is subject to rapid and continuous change;
- (b) that it has become a keen political issue;
- (c) that on the one hand it is wielded as a sacred but negative force designed to recreate a blissful state of nature, and on the other as a positive one to achieve certain allegedly progressive ends;
- (d) that land authorities and political leaders themselves in the smallest groups are at variance as to the precise definition of custom;
- (e) that it tends to be regarded by both people and administrators as a panacea of good;
- (f) that administrators, missionaries and others, not fully understanding custom, tend to leave many matters to be dealt with "in accordance with custom" when custom is simply incapable of meeting the challenge;
- (g) that it tends to be sentimentalised.

17. Having regard to these characteristics, which are certainly not found in all groups in all islands, let alone accepted by all administrators, the question arises whether or not too much is ascribed to or expected of custom, especially in view of changing political, social and economic conditions. The Commission is convinced that far too much is ascribed to or expected of custom. It considers that since the regulation and use of land in modern societies is a basic pre-requisite to effective economic development, the time has come when the Protectorate Government can no longer leave such matters to the vagaries of "native law and custom", let alone to its chance evolution. Public policy can cease to congratulate itself on the extent to which "native law and custom" have been preserved. In fact little preservation has occurred at all. The customary

tenure system has changed steadily and in many cases for the worse.

18. But the burden of such important and complex matters can not be left to Local Government to face unaided. This does not mean that total rejection of "native law and custom" is being recommended. It still has an important part to play, but in public policy it should be subjected to close critical scrutiny. It can no longer be taken for granted. Regard must be had to the different needs and circumstances and degrees of progress in each area. Finally, it is imperative that greater confidence than exists at present, must be won. If it is unsound to rely unquestioningly on the sanctity of custom, it is equally unsound to place faith in law unsupported by popular acceptance.

Breakdown of Individual Tenure

19. Lord Lugard has written in the "Dual Mandate in British Tropical Africa":-

"In the earliest stage, the land and its produce is shared by the community as a whole; later the produce is the property of the family or individuals by whose toil it is won, and the control of the land becomes vested in the head of the family. When the tribal stage is reached, the control passes to the chief, who allots unoccupied land at will, but is not justified in dispossessing any person or family who is using the land. Later still when the pressure of population has given to the land an exchange value, the conception of proprietary rights emerges, and sale, mortgage and lease of land apart from its user is recognised. These processes of natural evolution, leading up to individual ownership, may, I believe, be traced in every civilisation known to history."

20. Apart from certain places such as the Shortlands, parts of Roviana, the Reef islands, Santa Ana, Sikaiana and other isolated parts of the Protectorate where because of historical events or land pressure, individual tenure has already emerged in a tangible form, the customary system is still geared to the line as the pivotal land holding unit. While once the line was probably a group of about 50 individuals or more, progressive subdivision has reduced the average size to about ten and even less. Many lines consist of only one or two persons. The number of individuals comprising a land group is, of course, more.

21. There are certain circumstances, however, which are encouraging a progressive breakdown to individual tenure in almost all coastal areas. These are as follows:-

- (a) The fact that while traditionally, members of groups have a joint interest in a particular area, each individual member holds differing interests in that area, which have been acquired by transfer, inheritance, or his own efforts.

- (b) The tendency for a man to bequeath all his land interests to his own children, accompanied by increased acceptance of the principle of primogeniture, together with the development of facilities in the customary system to make this possible. This is marked by a growing interest in making wills.
- (c) The breakdown of the exogamous clan system in those areas where once it was so strongly entrenched.
- (d) Competition for coastal lands generally and coconut lands in particular.
- (e) The fact that cash cropping is restricted at present to the cultivation of permanent economic trees which the customary tenure system provides should be held on an individual basis.
- (f) Extending interest in buying and selling land.
- (g) Increased participation in trading and growing appreciation of the value of sites for storekeeping.
- (h) A developing conviction that the customary system, based as it is upon group tenure, is insecure. This manifests itself in individuals claiming that group tenure never did exist, that it was obscured by older Solomon Islanders, avaricious to obtain a share in the profits of early land sales and that this obscurity has been compounded by the courts and district administration.
- (i) Influence of European concepts of land tenure.
- (j) The gathering momentum of education and the general civilising process.

On the other hand, these tendencies are offset by the whole tradition of custom, generally opposed to the individual interest. It threatens that acceptance of individual tenure will make the alienation of land easier, besides resulting in the loss of that easy freedom which attaches to subsistence cultivation. Eventually, say the adherents of custom, all men will be condemned to a wage economy involving regular and daily work. But this is the dead hand of tradition for, irrespective of what custom may say, group tenure is passing steadily from reality and is becoming a theoretical device exploited to political ends and the impediment of progress.

22. The Commission has taken account of these tendencies towards a breakdown of group tenure and considers that Government would be advised to encourage the emergence of individual tenure where conditions are ripe for it. This will be when one or more of the following conditions are fulfilled:-

- (a) Where the emergence of a cash economy combined with an increasing population is causing competition for land and giving it an economic value.
- (b) Where permanent economic trees have become or are becoming an integral part of the cash economy and the expansion of production is being held up owing to insecurity of tenure.
- (c) Where the establishment of any new cash crop such as rice is being held up owing to unsatisfactory tenure arrangements.
- (d) Where immovable improvements are being made to the land in the form of fencing and buildings constructed in permanent and valuable materials.
- (e) Where developments in the customary tenure system are out of line with modern requirements, as for example in the bilateral inheritance systems of New Georgia and the exogamous matrilineal and patrilocal systems of the Central Solomons.
- (f) Where land is being developed by resettlement with either the direct or indirect assistance of Government.

23. The following are the principal methods by which the Government might encourage the emergence of individual tenure in areas where one or more of the above conditions are fulfilled:-

- (a) The grant of a negotiable title.
- (b) The active discouragement of the creation of permanent improvements in land in which no primary interest is held.
- (c) The provision of administrative support for individuals whose progressive methods are the object of interference and obstruction by their more backward fellows.
- (d) The concentration of services in areas where individual tenure is emerging. These include agricultural advice, scheduled shipping services, loan, marketing and co-operative facilities.

24. It is necessary to emphasise two things. The first is, that it is only in limited areas, and then only in isolated cases, that true individual tenure has emerged. The second is that "individual" is understood to mean any group of individuals who are capable or prepared to act as single entity. This exists in the Protectorate to a much greater extent than is generally appreciated, and could be brought into greater productive use by simple legal arrangements providing for one or two trustees to act for the group.

25. Finally, it is important to stress that wherever individual tenure is emerging, whether because of encouragement or by inevitable process, safeguards must be provided against the dangers which accompany it. These should include measures to ensure that single individuals, particularly land authorities, do not accumulate excessively large holdings or incur heavy burdens of unproductive debt. It is imperative that the Agricultural and Lands Departments should be equipped with basic legislation to ensure that land is effectively and properly used. In addition, care must be taken to avoid the evils of subdivision, fragmentation and unhealthy landlord/tenant relationships. Side by side with this, the Agricultural Department must be prepared to tackle the general problem of subsistence agriculture. These matters have been referred to in Part Two.

Economic

26. As stated in Chapter III, it was believed in 1944, that the determination of a clear policy in respect of native land was fundamental to any economic development which might be undertaken, in connection with the post war rehabilitation of the Protectorate. The war had directed attention to potential resources. Once again as in immediate post-protection times, these seemed unlimited, if only they could be developed. An effective land policy was held to be a basic requirement.

27. While post-war hopes for rapid economic development have not been fully realised, and the difficulties which beset the early years of the Protectorate - labour, communications, high costs besides the physical and human factors - are still with us, considerable progress nevertheless has been made. Production has been increased steadily; new basic services have been established and expanded; a new five year development programme was begun in April 1956. During these last years, however, the acceleration of economic development has been restricted at almost every stage, by the lack of a clear cut native land policy, and by the existence of outmoded and inadequate legislation designed many years ago to meet circumstances which no longer exist. Whereas once the interests of the Protectorate might have been promoted by legislation which prevented speculation, produced essential revenue and provided the means for European capital to obtain land, the same legislation is now strangling development. Whereas it was conditioned by the belief that no future existed for Solomon Islanders as a race, and that the Protectorate could be developed only by European capital, this is no longer so. The case for revision of policy and legislation in respect of native land, is stronger than in 1944. Unless the revision is undertaken, the future for agricultural and forestry development will remain uncertain.

28. But the Protectorate is still grant aided. Contributions have been increasing since 1955, and it is estimated that in 1957, one quarter of the total expenditure on ordinary services will be supplied by the United Kingdom. While development funds appear insufficient, capacity to utilise them effectively is limited.

The Protectorate has no external or internal public debt and has not yet been permitted to raise loans abroad. Income tax deters investors of capital, who are attracted to the more fortunate circumstances of the Territory of Papua-New Guinea. Finally, with the end of the Ministry of Food contract in 1957, the Protectorate, still dependent upon a single crop economy, faces a possibly serious drop in revenue in the following year.

29. Believing that there is a very considerable economic future for Solomon Islanders, taking into account that present land legislation and policy does little that is positive to promote that future, but having regard to the severely straightened economic circumstances in which the Protectorate is still situated, the Commission has designed its proposals to provide the basis for future economic expansion, in which, as time goes by, Solomon Islanders will play an increasing and greater part.

Political and Racial

30. In all underdeveloped countries where the evolution of political consciousness has been accompanied by acute interest in land, racial feeling has been manifest. This is particularly the case where considerable areas of land have been alienated. It is enhanced when land is short, or for various reasons, competition exists for particular classes of land, for example, coastal lands. Political consciousness began in the Protectorate after the war, and the concomitant tensions focusing on land are now prevalent. Solomon Islanders are reluctant to lease more land to Europeans or else they seek to recover that which has already been alienated. They have a deeply ingrained fear of immigration and permanent settlement by Oriental or Indian races. Accompanying all this is a steadily growing belief that somehow native land is inferior to alienated land, and particularly land which is leased from the Government or purchased in freehold. Although the Commission recognises that racial tensions have fortunately not reached the same proportions as in certain other territories, and indeed may never do so, it considers that careful regard must be paid to their inter-relationship with land tenure. This should not take the form of tacit acceptance of unreasonable prejudice under a cloak of general backwardness. Every effort must be made to alleviate the backwardness by the careful and patient exposition of policy objectives. Solomon Islanders are eager for technical advice and assistance and are receptive to explanation. All Europeans whether missionary, planter, or government officer, have an important part to play in this.

31. Having regard to present circumstances, but recognising that in the immediate future transfers of land between races, as opposed to indigenous Pacific Islanders, must continue to be controlled, the Commission's recommendations have been governed by the desirability of accepting as a firm principle of policy that Solomon Islanders, when conditions are ripe, should be able to achieve as good a title in their lands as anyone else, subject to

such controls that, in the best of interests of the state generally, it is necessary to apply to all persons regardless of race.

The Position of Part Europeans

32. Special consideration must be given to part-Europeans. In years gone by (but to a much lesser extent today) it was common practice for such persons to acquire European status by formal application under section 3 of the Definition (Native) Regulation (Cap 26) to a Deputy Commissioner. European status was accompanied by certain advantages and privileges and was generally coveted. Normally, such persons inherited private and public leasehold land from their European fathers. But as years have gone by and another generation has grown up, the lands bequeathed by their fathers are proving insufficient to support the enterprise of growing families. They could lease further public land, but rents are high; private land, being freehold, is beyond their means.

33. Many first generation part-Europeans could, however, inherit interests in native land from their Solomon Island mothers. But they are debarred from acquiring such interests except as provided in Cap 49, because they hold European status. Thus today, one or two are considering the advisability of abdicating European status, in order to inherit interests in their mothers' lands. The fact that as natives, they would not now be debarred from acquiring private land or public leaseholds weighs in favour of this. However, having inherited such interests their tenure would be very unsatisfactory, if not quite insecure. Not only would they be unable to develop the land by charging it, but their interests would almost certainly be the object of jealous claims by Solomon Island relatives. Furthermore, they would be unable to bequeath such land by will. The problem of the part-Europeans is not a vital consideration, but it is, nevertheless, one which supports the case for providing Solomon Islanders with the means to obtain individual title in their lands.

Inadequacy and Obscurity of Present Legislation

34. The basic defect in the present legislation is that, as reported in Chapter IV, no provision exists for the issue of titles. Indeed Colonial Office despatch No. 154 of 21st August 1912, specifically rejected the institution of a Torrens system of registration, and the deeds system has continued to the present day. In earlier years, the right of the Protectorate Government to issue titles was questioned, and some obscurity still attaches to this. While it is not thought that the constitutional lawyers would raise any major difficulties today, it is a question which must be resolved, and until it is doubt must qualify the recommendations of this report.

35. Since no legal titles have been issued, security of tenure does not exist. However, despite potential claims by Solomon Islanders, and the establishment of prescriptive rights in a few

areas, the majority of holders of alienated land, by long occupation and usage, would appear to have acquired some sort of de facto title. It would be a justifiable act of public policy to provide legislative arrangements which would resolve any doubts and provide that legal security which the passage of time has implied to exist. But any sense of security is felt by the holders of alienated lands alone. Much insecurity is felt among Solomon Islanders. This stems on the one hand from a belief that the Government in particular, and Europeans in general, are intent upon depriving them of their lands, and on the other, that the processes of the law can be used by their more sophisticated fellows to relieve them of valued lands. Such beliefs are encouraged by the hesitancy with which Government has approached native land matters, the unsatisfactory, inconsistent and cumbersome legal processes, and the inadequacy and obscurity of the present legislation. It is one of the principle objects of the Commission's recommendations to relieve this sense of insecurity.

36. Apart from this, and although the Commission is not concerned with alienated land policy, it is obliged to emphasise that the bulk of the present legislation, together with repealed legislation, which still has limited effect, is concerned primarily with controlling the alienation of native land in circumstances which are now out of date. The legislation can be only fully understood in the light of minute papers relating to specific alienations in the early years of the Protectorate. These illuminate the general obscurity, and at the same time show that the interpretations of today tend to differ from those of forty years ago. In particular, it is quite evident that the legislation was in no way designed to govern the tenure of land by Solomon Islanders, although attempts are made to stretch or amend it to meet present needs. Such attempts generally have proved unrewarding.

37. In these circumstances, the Commission is opposed to the amendment of the present legislation, to meet the policy decisions emerging from this report. It is considered imperative that it should be scrapped, and a new land code enacted, which will represent an integrated policy for land generally. A unified approach that controls all land is essential. The mere control of the alienation of native land or the leasing of public land is quite inadequate.

Lack of Basic Facts

38. It is a measure of the territory's poverty in statistical information and basic facts, that this enquiry is being carried out more than sixty years after protection, while in many other territories, such facts were available at least by the commencement of the third decade of this century. Apart from this, much basic information relative to agricultural production and consumption, the utilisation of land, forests and sea, the conditions of soil and climate, as it concerns Solomon Islanders and not just Europeans, which normally would have been obtained by now, and which would have materially assisted this enquiry, are just not available. At the same time,

much valuable information which has been collected lies buried in inaccessible records and files.

39. At various stages in the report, attention has been drawn specifically to the lack of particular statistics and suggestions have been made as to remedies to improve the position. Too much importance cannot be placed upon the undesirability of proceeding with a programme of land reform without basic information. In the past, valuable information has been lost, while much time has been wasted and misdirected, in the unnecessary collection of statistics and information already available in buried records, through lack of co-ordination between District, Department and Secretariat levels. It is therefore suggested that the details of how and when statistics and information are collected, collated and maintained should in future be closely co-ordinated. The obviousness of such a recommendation should not belie the necessity for re-examination of the present arrangements.

40. Finally, it cannot be over-emphasised that the facts recorded in this report have been collected over a period of several years. What may have applied in 1953, is not necessarily relevant four or five years later. This body of information must be subjected to critical review from time to time in order to maintain an effective understanding of land tenure. Too often, in the past, have Solomon Island institutions been accorded that timeless quality which cannot be substantiated by the facts of the situation. In this connection, it is to be regretted that some of the many thousands of words devoted by past Government officers, missionaries and anthropologists to the eccentricities of material culture and custom in vacuo, were not concerned with social change. Such change does not stem from the effects of European and other alien cultures only, but with increased movement and contact between different societies, also derives from the indigenous inhabitants themselves. It would assist administration generally if such matters could receive closer attention in the future.

Physical and Human Factors

41. In Chapter I, attention was drawn to the variety of physical conditions which divide the Protectorate. Reference was made to variations in topography, climate, soil and vegetation together with the difficulties and dangers of terrain and seas. Particular mention was made of the problem of communications in the interiors of the larger islands, with the outlying islands and those coasts which are far from the main internal sea routes.

42. These environmental differences are closely linked to the unusual heterogeneity of language, custom and social conditions and have a marked influence upon the general receptivity of Solomon Islanders to ideas. Villages a few miles apart present startling contrasts in cleanliness, productivity, education, health and parochialism. These contrasts extend into villages and hamlets and even in a spectacular fashion to different individuals. Through-

out the Protectorate, extreme backwardness contrasts with marked progress, narrow conservatism with frank open-mindedness, complete detachment with active participation, and suspicion with confidence.

43. For these reasons, in the field of land tenure, the type of legislation required is that which facilitates rather than compels. This is a primary consideration, since it enables progressive elements of the community to advance, but permits the more backward to follow always with the target in front of them. In particular, such legislation provides Government with the machinery with which to promote progress in those areas that are ready for it, leaving the others to take their time.

PROPOSED LEGISLATIVE ARRANGEMENTS

The Commission has been charged with the duty of studying, recording and, as far as possible, correlating native custom relating to land, and in the light of the knowledge thus gained, and of the apparent needs of the future, to recommend in what way the use and ownership of native land, and land to which no validated claim is found to exist, can best be controlled.

The Alternatives

2. Part Three represents the furthest extent to which it has been possible to proceed, within the confines of this report, with the recording and correlation of native land custom. The alternatives for future policy are as follows:-

- (a) to accept the dictum of *Hanasiki v. Symes* and devise a customary land code based on the reconstruction of custom as it existed in 1893, and provide for needs and changes since that date, by rules under legislation;
- (b) to devise a modern land policy, which accepts the fact that the present customary system is outmoded, and should be extinguished immediately;
- (c) to do nothing at all, and allow the present arrangements or lack of them, to continue;
- (d) to devise a policy which takes into account the present continuing need for the customary system, but which at the same time guides it along progressive lines towards the emergence of a modern tenure system, based on adjudication and registration of individual title.

3. The disadvantage of the first alternative is that even today, custom is difficult to determine precisely. To determine what it was in 1893 is an impossible task. Apart from this, diversity is extensive in every large island. Even if codification were achieved at considerable cost in money and time, the result could have little regard to future needs and requirements. However, the essential disadvantage of such a policy is that it would serve to petrify something which this report has shown to be a living organism. While such a policy has received support in some territories, their circumstances are different from the Protectorate. Furthermore, the results have not been encouraging, and the desirability of such policy is now generally questioned.

4. The second alternative presents certain attractions, since the state of the customary system at present as it affects the economic use of land is quite unsatisfactory. However, such a radical change of policy is unlikely to receive general support, since custom is still too deeply entrenched in the social and political organisation of the Protectorate.

5. Surprise may be exhibited at even considering the third alternative. Nevertheless, despite the various and conflicting advices of the late Mr. C.M. Woodford, and successive Resident Commissioners up to the middle 'twenties, Mr. F.B. Phillips, and the first Commissioner of Lands, the late Mr. S.G. Knibbs, no effective native land policy has yet been devised. It is re-iterated that unless a positive policy is evolved from the work of the present Commission, Government can confidently expect that the economy will suffer seriously, land will become a vicious political issue, and a succession of land commissions and exaggerated claims will necessitate regular and increasing charges on the public funds.

6. The Commission favours the adoption of the fourth alternative. It believes that in conjunction with the improvements which can be effected to the present customary system through Local Government, the proposed Local Land Committees and the Courts, it is both feasible and desirable to meet future requirements by providing legislative and administrative arrangements to enable customary interests in land to be adjudicated, and registered, and for individual titles to be issued in respect of them. The issue of titles would extinguish the customary element attaching to such land, whose tenure and transfer would then be governed by appropriate legislation.

7. In recommending the adoption of this policy, it is emphasised that it is not proposed that Government should forthwith embark on a costly scheme of adjudication, survey and registration of all native lands in the Protectorate from Tikopia to the Bougainville Straits, or from the sea coasts to the highest mountains. This was undertaken in Fiji, and the work took some 40 years to complete; at a time when surveyors were plentiful and costs were relatively low, it could not have cost less than £A150,000. Since the policy was based on the registration of group interests, the results could eventually prove costly and embarrassing. Shortly after the war, a similar scheme was embarked on in New Guinea, and a start made in the Port Moresby vicinity. Subsequently it was abandoned and the whole policy is under current review. To apply such a policy in the Protectorate would be pointless, since the bulk of the interior land is at present valueless. The policy should only be applied in specific areas and where circumstances make it desirable. In other areas, the customary title will continue to attach to interests held in native land until such time as adjudication and registration become necessary.

Provision of Titles

8. There are four main elements in the provision of titles.

These are as follows:-

- (a) the authority which provides the title must have a legal right to issue titles. At the present time, the Protectorate Government has no such right and this must be obtained. This will necessitate careful analysis of Orders-in-Council, applied English law of varying dates, local regulations, the few cases decided by the courts laying down legal principles and legal rulings applied by administrative arrangements;
- (b) the interests which actually exist in an area in which titles are to be issued, must be adjudicated by an appointed officer, who carries out his enquiries by deliberate process governed by legislation. Adjudication is a decision "in rem" as distinct from a judgment in the ordinary land case which is a judgment "in personam" i.e. only as between actual parties to the suit. Thus A may win an action against B, but this will not protect him against C. Adjudication will however, not only dispose of B's claim, but will secure A against all other claims; it is in fact the only process whereby a title valid against the world can be obtained; (NOTE: The term "adjudication" is preferred to "settlement", a word sometimes used, but which in the Protectorate is closely associated with resettlement of people.)
- (c) the title to interests so adjudicated is registered, and no unregistered dealing in respect of any parcel of the land shall be valid against any registered dealing. Although the dealing must conform to rules, and customary modes of transfer are superseded, customary obligations and arrangements can continue, within the framework of the rules. The Register should be maintained by Central Government but, in the case of Western, Eastern and Malaita districts, the essential information contained in the Register should be at District Stations;
- (d) registration of title in different plots must be related to cadastral plans. These must be of such a scale that numbered entries in the Register can be identified by the number of the corresponding plot of the plan. The degree of accuracy of survey which is necessary in the preparation of such plans, is a controversial matter. In the general circumstances of the Protectorate it is not felt that survey in rural areas needs to be of an especially high degree of accuracy, and it is probable that by means of training arrangements, greater use could be made of educated Solomon Islanders and perhaps Gilbertese as surveyors. This is a technical matter, however, and the discretion as to accuracy required must be left to the Registrar who will be in control of all cadastral plans.

9. It has been stated previously that the adjudication of all lands in the Protectorate immediately is not contemplated, for economic reasons. Indeed, such a procedure would not even be socially or politically desirable. The following is a list of the circumstances in which it is thought that a system of adjudication and registration should be introduced:-

- (a) where the competition for coastal lands has resulted in a high incidence of disputes and general dissatisfaction, and is causing a stalemate in land development;
- (b) where numerous alienations of land have occurred in the past, and these are disputed by Solomon Islanders on grounds of indefinable boundaries, or lack of rights of the original vendors to alienate, and it is desirable to adjudicate all interests, both European and Solomon Island, in the area;
- (c) where native leases with valuable fixed assets are resumed by Solomon Islanders, and the former interests in the land are in dispute, thus preventing the continued use and development of the land;
- (d) where new land is being brought into use by planned re-settlement;
- (e) where land is being acquired for public or productive purposes, and existing interests must be expropriated and compensation paid;
- (f) where native land is to be alienated by lease;
- (g) where mining or forestry development is contemplated and it is necessary to know what interests, if any, are held in the land;
- (h) where the emergence of an exchange economy based on the cultivation of new permanent economic trees is leading to competition for land, and the lack of definition of interests is creating an atmosphere of insecurity;
- (i) where the lack of a negotiable title is preventing the effective application of loan facilities;
- (j) where the breakdown to individual tenure is leading to dealings in land by purchase and sale;
- (k) where the conflict between definition of native custom and the emergence of new economic needs are such that the individual is inadequately protected.

These are some of the circumstances in which a system of adjudication and registration are desirable. It has been suggested in the case of East Africa that certain additional conditions must be fulfilled

to make the system practicable. These conditions apply in the Protectorate and are:-

- (i) the introduction of the system has a reasonable measure of support and is not opposed by any substantial proportion of the persons whose land will form the subject of adjudication and registration;

NOTE: While many Solomon Islanders expressed a desire to have their lands adjudicated and registered, it is not considered that they are yet fully aware of what is involved. It is imperative before any land is declared an adjudication area, that the people concerned should understand the process. Too much time and trouble cannot be expended on this.

- (ii) the requisite staff and organisational ability, with which to set up and operate continuously the working records of the system, are available;

NOTE: Only recently has the Lands Department had the benefit of experienced direction. The present staff is inadequate to deal with current arrears of survey, but measures are being taken to meet the problem. The present staff will need to be supplemented to enable adequate records of extended activities to be maintained.

- (iii) adequate survey facilities are available to carry out cadastral work of the required degree of accuracy;

NOTE: Adequate facilities do not at present exist, but are slowly being built up.

- (iv) the expense and complexity of the operation embarked upon is fully appreciated;

NOTE: While it is essential that this should be appreciated, it must also be accepted that further delay will increase the cost and complexity to serious proportions.

- (v) the areas of land within which adjudication and registration are to be initiated are recognisable and defined.

NOTE: It is not anticipated that any difficulty will be encountered in this.

10. Two forms of adjudication must be distinguished. These are systematic and sporadic. The former requires that all the interests governed by law, custom and practice in the area selected should be adjudicated. The careful selection of the adjudication area, which may be large or small, is therefore of considerable importance. At this stage it is pointless and uneconomic to include in the area to be selected, large areas of land which are unsettled, and for which there is at the time no foreseeable economic use. At the same time, it would be improper to select an area which is so

small that before adjudication starts it is clearly known that only a single interest, held by, say, a European, will be registered. This is especially so if it is known that adjacent interests held by Solomon Islanders are in need of adjudication.

11. The sporadic form involves the adjudication of particular parcels of land, regardless of where situated, or when and how the application is presented. The main disadvantages are that it is more expensive in time and money in the long run, since all conflicting claims must be considered, and it lacks the general publicity which attaches to systematic adjudication, and may become vicious in practice. Furthermore, it does not reveal a true picture of the tenure in a particular area. Nevertheless, in the special circumstances of the Protectorate, it is considered that where native land is being alienated by lease, or is being acquired for public purposes, or is being offered as security for a loan, or is being developed with considerable energy, sporadic adjudication should be applied. The utmost care is necessary, and the widest publicity should be given to any notification of intent to adjudicate. The precise arrangements to be followed should be laid down by legislation.

12. The actual process of adjudication must now be considered. In the immediate future it is not thought that the adjudication party needs to consist of more than an adjudication officer, a surveyor and such subordinate local staff as is required. The adjudication officer should preferably be a land tenure officer, specially appointed to undertake adjudication throughout the Protectorate. In some instances, he could be the District Commissioner of the district. Both the adjudication officer and the surveyor should be formally appointed by name, when the area is declared for adjudication.

13. The first action to be taken by the adjudication officer is to publish notices of the intended adjudication and registration, and, at the same time, to ensure that the information contained in the notices actually reaches everybody concerned. Prior to demarcating the area he should hold a public meeting attended by all the headmen, land authorities, and persons with interests in the area to explain the procedure, and reach agreement on the nature and extent of the interests to be recorded. These will normally be primary or secondary interests, the former being the basis for full ownership rights.

14. The adjudication officer, with the surveyor, will then demarcate each plot in turn in conjunction with the claimants, and ensure that the boundaries are defined and agreed, and that public tracks, roads and rights of way are marked and recognised. A sketch map is prepared as the work proceeds, and each plot of land is given a number. The numbers are listed, and the name of land placed beside its relevant number. Unclaimed areas are also numbered. During this period a good deal of disagreement will be evidenced, but the adjudication officer, using powers backed by

legislation, and a good deal of tact and patience, should be able to iron out many of the confusions, and in certain cases straighten boundaries, re-align and consolidate properties and interests.

15. The survey officer, who should have assisted in the demarcation, may then proceed to formal survey, while the adjudication officer prepares the register. The precise form that the register is to take will be laid down by the Registrar, but normally it will simply set out the number and name of the plot, and record the names of interest holders. If he is satisfied that any person is entitled to full ownership, he will admit his ownership and register his name as owner. (By individual is meant any customary group or association which, in fact, enables a single and individual control to be exercised over the use of the land, in respect of which the interests are held.) If he is satisfied that any land is entirely free from interests, or that the interests in it do not amount to full ownership, he will register it to the Land Trust Board. If he is satisfied that interests not amounting to full ownership exist over the land owned by the Government or any other person (corporate or individual), he will register the interest in the name of the person entitled to it, and record such particulars as may be necessary to define its nature and extent.

16. The proceedings in respect of a great proportion of the claims will be brief, but protracted enquiries may be necessary where the parties cannot agree, or when the interests are so fragmented or tangled that they are unregistrable. In these circumstances, the adjudication officer will proceed to determine the case according to the procedure of a land dispute, as suggested on the lines recommended for the settlement of disputes in Chapter X. Again, it is imperative that legislation should provide that the parties may not be represented by lawyers. Provision may be necessary for appeal.

17. Great care must be exercised, to ensure that land authorities are not given any impression that their interests by reason of their administrative duties, as first among equals in a line, are being converted into proprietary rights, by the act of adjudication and registration. The whole process is designed to record the nature of interests at the time of adjudication. Therefore, new interests cannot be created that did not exist before, though mutual and agreed adjustments can be made between parties to facilitate registration. A question which must certainly arise is where the interests in permanent economic trees, and the land on which they grow, are found to be separately held. It is considered that every effort must be made to arrange adjustment, if necessary by payment of compensation, to ensure that land and trees are registered to the one interest holder, whether singly or corporate.

18. Throughout all these formalities, tact and patience are essential requisites. This is what the Chief Lands Commissioner in the Gilbert & Ellice Islands Colony said in 1949 about the procedure to be followed in the Colony:-

"More important than any methods or techniques in effecting a lands settlement are the attitude and manner of approach adopted by the officer. It is necessary to be firm because the islander finds it very difficult to realise that a judgment by the Commission is final and irrevocable. At the same time the islander must be given no reason to complain that he has not been given a full and sympathetic hearing Much patience is required and the Lands Commissioner must never allow himself to become ruffled or short-tempered. He must always remember that he is the servant of the people and it is every bit as important to procure their good will and contentment as it is to give correct judgments."

19. Once the adjudication and registration have been completed, the Register must be maintained and kept up to date, and measures will be necessary to see that this is done. In this connection, it will be asked whether actual certificates are to be issued to title holders, and whether the interests confirmed by the title should be freehold. As regards the former, it should not be necessary to issue certificates immediately, providing rules are enacted under the legislation, which will govern all subsequent transfers and dealings in the land, because the customary element will have been extinguished. Eventually, some sort of suitable but simple document could be issued. As regards the latter, no firm views are held either for or against the term freehold, providing the local legislation makes clear precisely what is meant in local circumstances. Since a good deal of feeling is exhibited for and against the term, it is suggested that the title be simply declared "indefeasible", as has been done in the Gilbert & Ellice Islands Colony, and left at that.

20. When the customary element in the land has been extinguished by adjudication and registration, transfers and dealings in such land will have to be controlled by legislation. This should be directed towards preventing chronic indebtedness by controlling the taking of charges on land; they should limit the fragmentation of holdings by preventing subdivision and registration below a certain size; they should prevent the accumulation of large holdings in the hands of a few individuals, with the danger that some land remains unproductive; and they should limit the transfer of holdings between natives and non-natives to lease arrangements, which should be subject to control by a central authority. Transfers by sale between natives should be permitted. Disputes will, of course, be heard in terms of the legislation by the ordinary courts.

21. The general criticism will be levelled against these proposals that Solomon Islanders are unprepared for such advanced arrangements, and that land interests cannot be adjudicated or untangled. It is contended that providing care is taken to ensure that adjudication proceeds only in the desirable circumstances outlined above, and that certain practicable conditions are met, and providing, further, that adjudication and registration in a particular area has the support of the bulk of the population, and that an atmosphere of

confidence and determination to make it work has been promoted, no great difficulties should be encountered. The main advantage of the proposal is that it represents a policy which can be geared to the speed of economic development in different areas. The essential purpose is to improve the economic use of the land, and this fact should never be lost to sight. For this reason, the Commission has not obscured the issue by entering into too many technical details of registration and survey. If the principle is accepted, the difficulties of detail must be overcome.

22. Finally, it might also be argued that the whole process is cumbersome and elaborate. In essence these arrangements represent little more than what the land laws, past and present, have in fact implied ought to be done in connection with the alienation of land, whether freehold waste land or leasehold land; that is, to determine by reasonable enquiry the nature of interests existing in the land before the land is alienated. The history of land policy is illustrative of the scant attention which has been paid to this. More precise and extensive arrangements are now necessary, for land can no longer be thought of in terms of alienation to Europeans. The economic and political advancement of Solomon Islanders is proceeding rapidly, and a general policy must be devised which can be applied to all land.

The Problem of Waste Lands

23. The Commission has also been charged with advising in what way land to which no validated claim is found to exist can best be controlled. The unfortunate history of the Government's waste land policy since 1893 has been outlined in Chapter III, and various references have been made to its effects. It would be as well to summarise the main aspects of the policy from its earliest inception. These are:-

- (a) By Letters Patent passed under the Great Seal of the United Kingdom, dated 10th June 1868, the Governor of New South Wales was authorised to make leases of and dispositions of uninhabited and unclaimed islands and places containing guano and fertilising substances in the possession of the Crown within certain limits of the Pacific but not within the jurisdiction of a Colonial Government.
- (b) By Letters Patent dated 19th July 1879, these powers were transferred to the High Commissioner for the Western Pacific.
- (c) By Letters Patent dated 19th May 1890, the High Commissioner for the Western Pacific was authorised to make leases and other dispositions of uninhabited and unclaimed islands and places in the Northern and Southern Pacific Ocean, being parts of the British Dominions but not within the jurisdiction of any Colonial Government, and to

issue licences to occupy such islands and places, to display the British Flag in proof of occupation, to work minerals or take guano etc. or to plant, cultivate and export produce (coconuts).

- (d) By Letters Patent dated 20th May 1890, the High Commissioner was authorised to proceed similarly in respect of islands and places, not within the British Dominions nor within the jurisdiction of any civilised power.
- (e) Queen's Regulation No. 4 of 1896 provided at section 10 for the leasing by the High Commissioner of land within the Protectorate, which was vacant by reason of the extinction of the original native owners and their descendants.
- (f) Queen's Regulation No. 3 of 1900, King's Regulation No. 1 of 1901, and King's Regulation No. 1 of 1902, defined waste land as not owned, cultivated or occupied by any native or non-native person and provided that no person shall occupy or take possession of any waste land, otherwise than under a certificate of occupation, application for which should be made to the Resident Commissioner who would recommend it or not to the High Commissioner, who at his discretion could grant the certificate. In the schedule set out in the Regulation the applicant was required to state that to the best of his knowledge and belief, the land was neither owned, cultivated or occupied by anyone.
- (g) The question of actual title in such waste lands is illuminated by paragraph 4 of Colonial Office despatch No. 31 of 29th October 1900, which stated -

"I am advised that the Crown cannot claim property in the waste lands unless the islands are annexed. What it was proposed to do was to guarantee and protect certified occupation. Under the powers given by the Foreign Jurisdiction Acts, the unauthorised occupation of Waste Lands can be forbidden, and the authorised occupant protected not by granting proprietary rights but by prohibition of occupation or interference by others. The process is in fact a measure of police, rather than a sale or lease of land in which the Crown has proprietary rights. If, of course, at any future time the islands are annexed and the waste lands become legally the property of the Crown, the Certificates granted under the regulations can then be replaced by proper leases or other titles."

Despite this view, minerals were unreservedly vested in the Crown by the Certificates issued under the legislation.

As far as can be seen, this advice has been binding in policy matters ever since, for no restatement of the position can be found.

- (h) The legislation implied that no Certificates would be issued unless the High Commissioner was satisfied that the land was in fact waste land. The process of enquiry was not laid down.
- (i) In practice Certificates were issued in respect of waste lands which Solomon Islanders disputed were not in fact waste lands. This necessitated the appointment of an expensive Lands Commission to settle specific claims.
- (j) The draft legislation proposed in 1912 to consolidate and amend the Protectorate's laws proposed arrangements for the formal enquiry by the Resident Commissioner to ascertain what lands were in fact native, waste or vacant lands.
- (k) Colonial Office despatch No. 155 of 21st August 1912, suggested certain radical alterations including the deletion of the arrangements referred to in (j) and by redefinition of the classes of land, implied that Public Land could be held to include all waste or vacant lands. The legislation was enacted as the Solomon Islands Land Regulation (Cap 49) and in the opinion of local Law Officers, the interpretation of the definition of Public Land to include waste or vacant lands is valid today. The interpretation has been lost to sight and, as far as is known, has never been applied.
- (l) Although Cap 49 abolished the Waste Lands Regulations, special enabling legislation was enacted in 1918 (King's Regulation No. 10 of 1918) to empower the grant of Certificate of Occupation in respect of certain lands on the Guadalcanar plains to the Solomon Islands Development Company Ltd. Subsequently, Government acquired these Certificates, by purchase in 1946 and the Government's interests in the land are now challenged on the grounds that the land was not in fact waste land.
- (m) Solomon Islanders generally dispute any claim made by Government to title in waste lands. The following statement made by Mr. J. Vouza, M.B.E., G.M., in the April 1956 meeting of Advisory Council is illustrative of this attitude:-

"My second point is waste land. I want to make clear that there is no waste land here. Every bit of land belongs to someone. If someone wants to lease land let him find out the true owner and make everything straight. We don't want to block progress -

there is no difficulty about land for public purposes such as building the headquarters here at Honiara and if Solomon Islanders are too lazy to develop their own land by all means bring in labour from other places. But if foreign workers are to be brought here, bring them here on contract and send them home at the end of the contract. Don't give them land to settle on."

In answer to this, the official statement was made that the Waste Land regulations have been abolished.

24. Thus the position appears to be this. In the Protectorate, the Crown cannot claim property in waste lands, but it has the right to regulate and control occupation of such lands. Furthermore, it does not appear that by repealing the Waste Lands Regulations the Crown has in any way abdicated this right.

25. Despite the feeling which exists on the subject, the Commission is of the opinion that the public interest and modern requirements demand that this position should be maintained, and that it should be clarified by legislation. At the same time, public confidence demands that special arrangements should be made to ensure such lands are administered in the interests of all the peoples of the Protectorate and not for the exclusive benefit of a minority. It is not considered that this can be achieved except by Central Government or some agency thereof. Accordingly, it is proposed that all lands which adjudication has shown to be vacant of interests amounting to full ownership at the time of adjudication, should be registered in the name of the Solomon Island Land Trust Board, to be set up as a body corporate with perpetual succession to administer such lands in the economic interest of the whole Protectorate. Interests such as sporadic hunting and gathering etc. not amounting to full ownership should be petrified.

26. It can be assured that at this date, adjudication will show certain alienated lands to be vacant of interests through the death or disappearance of the former owners. Certain alleged Public Lands may also be found vacant of interests, either because they were formerly waste lands, or because no conveyance has ever been executed, or else because neither the Crown nor anyone else has ever established any interests in the land. It would be improper to continue to refer to such lands as waste lands; apart from this, a certain reproach attaches to the term, and in all circumstances it seems desirable that such land should be registered as trust lands.

27. The question arises as to what action should be taken in respect of such Certificates of Occupation as are still in existence. This is a thorny question which could arouse considerable feeling on the part of present holders. Since such certificates are regarded with considerable antipathy by the descendants of Solomon Islanders who believed that the Government wilfully and unfairly deprived them of their lands, it is felt that the public interest

requires that present certificates should be cancelled, the land proclaimed trust land and new Certificates on similar terms issued to the present holders. The essential advantage is that the ultimate disposal of the land, at the end of the term, would then be clarified. At present, the position is quite obscure.

28. It would seem convenient that the recommendations made in Chapter VIII, namely that the Crown should be vested with control in forests, reefs, saltwater swamps and seas below high water mark, together with all rivers, waterways, streams and springs in all Protectorate land, should be considered in conjunction with the above recommendations relating to waste land.

Land for Resettlement

29. Land policy, in respect of the current schemes of Tikopia and Gilbertese resettlement, has been worked out in terms of the present legislation. In the previous chapter it was suggested that resettlement should be treated on a long term basis. It is therefore necessary to see how such plans should be integrated into future plans for land tenure.

30. In the first place, it seems imperative that land which it is proposed to set aside for a particular scheme, should be carefully surveyed to determine the precise numbers which the land is capable of supporting in perpetuity. The survey should have regard to the intending settlers' traditional methods of subsistence, their capacity to learn new techniques in a different environment, their traditional tenure system, and the nature of the resources in the land to be settled. Unless this is done accurately, and regard is paid to the results, the circumstances of land hunger, which necessitated resettlement in the first place, will simply be reproduced, and more public money will have to be spent on further resettlement a year or so later. This is not an idle possibility, for the Gilbertese being settled at Gizo are in fact being resettled for a second time.

31. Secondly, in the case of rural resettlement as opposed to suburban, sufficient and suitable land should be available to each family, not only for subsistence purposes, but also to enable it to participate freely in the cash economy as independent producers of cash crops. A decision on the particular crop is necessary, together with the optimum size of plot which should be set aside. It is essential that the overall economy should benefit from resettlement.

32. Thirdly, land tenure arrangements in the new settlements should seek to avoid the reproduction of those unsatisfactory tenurial conditions which the uncontrolled evolution of custom has brought about in the home islands. In the case of the Gilberts, there appears to be excessive fragmentation, uneconomic use and unproductive occupation of land. To avoid this, Government should play a positive part in the subdivision of resettlement lands, and should not leave such an important responsibility to be discharged haphaz-

ardly by any Land Committee, in accordance with unregulated custom.

33. Finally, land tenure arrangements in resettlement lands should have regard to the particular classes of land available. These are as follows:-

- (a) Public land set aside for resettlement purposes.
- (b) Alienated land sold or surrendered to Government for a specific resettlement scheme.
- (c) Native land sold or surrendered to Government for a specific scheme.
- (d) Land which adjudication shows to be vacant of interests and in consequence has been registered as trust lands.

34. Taking these in order, it seems most unlikely that much suitable public land will be available. Even so, such land must be properly vested in the settlers and not merely set aside, as is the case under present arrangements. Land of the second category will probably be available only for any scheme which is devised, with the part object of providing labour for Europeans. Such a scheme should not proceed on any tenant farming basis in which the company is the landlord; titles in the land on which the people are to be settled, and from which their subsistence is to be drawn, should be independent of the company concerned.

35. Coming now to the third category, native land, it seems clear that any such land sold or surrendered will inevitably lose the element of customary title which still attaches to it. This applies particularly in the case of land purchased by the prospective settlers from Solomon Islanders direct. Such land should be made the subject of adjudication and registration, before it is sold or surrendered. At the same time, local land consciousness is such that it will be difficult to convince Solomon Islanders that such lands are in fact required for the re-settlement of other Pacific Islanders, unless adequate guarantees as to future use and disposition are written into the legislation. This latter point is particularly applicable in the case of the last category, that is land vacant of interests and registered as trust lands. Such lands, particularly on the coasts, should be utilised primarily for resettlement purposes.

36. As regards all categories of land, the general qualification must be made that obviously settlers will in time establish full ownership rights in settlement lands, that these will probably be on an individual basis, and that any policy of issuing indefeasible individual titles to Solomon Islanders should be applicable in the case of resettlement lands.

37. If the proposals made for the establishment of a Solomon Island Land Trust Board are accepted, it seems desirable that all

land set aside, sold, surrendered, or in any way acquired for resettlement purposes, should be vested in the Board. This should apply even in the case of land which may be available for sale direct to prospective settlers. This involves recognising that Europeans or Solomon Islanders should not be permitted to sell land direct to prospective settlers, but should negotiate the sale only through the Board. All such land should be categorised as resettlement land and administered in the following way:-

- (a) Such lands may be allocated by the Board to any group of settlers on such terms and conditions as it thinks fit; the Board should cause such land to be registered in the name of the trustees of the settlers, who may, of course, be a land committee.
- (b) The Board will specify what arrangements will be made for the subdivision of such land and the maintenance of records of such subdivision.
- (c) The Board will not charge rent for such lands, but may sell the improvements to the settlers on a progressive payment basis.
- (d) Persons occupying resettlement lands may not transfer or charge such land to any other natives or non-natives without the consent of the Board.
- (e) Upon good cause being shown, and with the consent of the settlers, the Board may proclaim any area of resettlement land to be excluded permanently from any portion of resettlement lands, for the purposes of adjudication and the issue of indefeasible titles.

Alienation of Native Land

38. Providing that the proposals and recommendations made already are accepted, and provided particularly that the interests in native land to be leased or sold to the Protectorate Government are first adjudicated and registered, the present general arrangements for the alienation of land should continue with three major modifications.

39. At present the High Commissioner is empowered to lease land to non-natives if the consent of the native owners is first obtained, and if the land to be leased is not under cultivation nor required for the future support of the natives. These powers have recently been delegated to the Commissioner of Lands. Since the further alienation of land is a matter of some political concern, and since arrangements in the past have not proved altogether satisfactory, it is thought more appropriate that the leasing of native land, or land which has been adjudicated and registered, should be vested in the Land Trust Board. Greater continuity of policy would be ensured and public confidence improved. Further-

more, it cannot be said that in the past, the Government has adequately discharged its responsibilities to ensure that land which is to be leased is not in fact required for the future support of the natives. With the certainty that the present population will increase and develop rapidly over the next generation or so, this responsibility is an important one, and every effort should be made to ensure that it is faithfully discharged, especially where coastal land is involved. The 1956 report of the United Nations' visiting Mission to New Guinea has drawn attention to the recognition of this need in that country.

40. Secondly, rents on new leases have recently been increased. Section 22 of the Land Regulation provides that ten per cent of the actual rent payable to the native owners should be retained by the Protectorate Government. This sum would now be payable to the funds of the Trust Board. It seems reasonable, however, that as a first step towards the establishment of a land taxation system, a further ten per cent of the gross annual rental should be deducted and credited to the appropriate Local Council of the district of sub-district in which the land is situated.

41. Thirdly, it is suggested that, in answer to criticism by Solomon Islanders and also to maintain consistency, all public lands which are not at present used or required for public purposes, but which are leased or are available for lease, might be vested in the Board. In future, all such lands would be leased by the Board. The control of urban Public Lands, and land acquired for public purposes would of course continue to be vested in the Government.

Native Reserve Land

42. The present legislation does not provide for this class of land. However, the findings of the first Lands Commission resulted in a number of small areas in the Western Solomons and Malaita being declared native reserves. By the order of the Court settling the amount of compensation payable to the owners of the Honiara land, a native reserve was created on the western bank of the mouth of the Matanikau river. It may also be found that a number of the older deeds have reserve provisions. Furthermore, although no clear records appear to exist, it seems certain that before the war administrative arrangements created reserves over certain native lands, such as on the north coast of Guadalcanar west of Honiara, to enable the people living just inland to obtain access to the sea. Other cases may exist. The reservation of such areas was not made specific to natives by name or even groups with any legal entity.

43. While the reservation of native land, to prevent alienation, is a traditional characteristic of Colonial policy and could perhaps have been put to good effect in earlier years, the term "Native reserve" has certain connotations which today make its application, together with the use of the term, distasteful. Apart from this, the accent in the future should be on the economic and productive use of land. For this reason it is considered that such

lands should be subject to the normal process of adjudication and if interests are found amounting to full ownership, then the land should be registered to the owners. If, however, such lands are not found to be subject to any interests amounting to full ownership, they should be vested in the Land Trust Board.

44. It is appropriate here to deal with that class of land to which reference was made in Chapter VIII, namely sacred mountains, and places of traditional cultural significance which should not be alienated, removed or subjected to depredation but which in the public interest should be protected, even though such places have significance only to limited groups or perhaps to individuals. Such places would include sites and objects of archaeological, prehistoric, palaeontological, anthropological, ethnological or historic interest. It is suggested that the Land Trust Board should be accorded powers to control acts in relation to such places to prevent entry except by permit, and to vest their management in trustees appointed by a line or land group, or a scientific society, for that matter. Thus, if the Board saw fit, it could prevent entry of Europeans on to the slopes of Mount Tatuve, or even vest the mountain itself in trustees with perpetual succession nominated by the Tatuve people. Alternatively, it could circumvent the misplaced enthusiasm of Solomon Island Mission teachers intent upon destroying pagan monuments. Or yet again, if an important archaeological discovery is made, it could prevent excavations which might cause local feeling or, if no danger of that existed, it could ensure that only competent archaeologists are allowed to enter the area. This device has a flavour of unreality, but its existence in the past could have prevented much ill feeling, apart from preserving from destruction countless objects and monuments of scientific interest.

Compulsory Acquisition of Land for Public or Productive Purposes

45. The present arrangements for the acquisition of land for public purposes (defined in section 2 of Cap 49) are contained in Part II of the Land Regulation. It is provided that the High Commissioner may acquire any lands for a public purpose, by paying such consideration or compensation as may be agreed upon, or determined under the provisions of the Regulation. It is also provided in section 30 that the High Commissioner may acquire without payment of compensation, any native land which is the property of a village or community, which it is necessary to acquire for certain specific purposes, provided that the land so acquired shall not exceed one-twentieth of the whole of the land belonging to the village or community.

46. Native land is acquired for public purposes under both these provisions. Apart from the fact that under the latter arrangement, the use of the term "village" or "community" is quite meaningless, it is inequitable in principle that any land should be acquired for public purposes without the payment of compensation, and it is recommended that the legislation should be amended to provide for the adjudication of interests and the payment of proper

compensation in terms of the legislation.

47. The manner in which an equitable valuation of the interests to be acquired is to be made is provided for in the legislation but this only applies in the event of disagreement and reference to the courts becoming necessary. This seems to be quite unsatisfactory, for it is surely necessary that the principles governing the assessment of compensation should be applied at the time that notification to acquire is made. The legislation invites the Government to make the lowest possible offer, the owner to ask a higher one; when haggling between the two figures fails to produce agreement, resort is had to the Courts in an atmosphere of ill-will which persists long after the Court delivers its findings. The result is that the public purpose, worthy that it might be, is launched with tarnished beginnings. The process is a dangerous and insensitive one and should be remedied.

48. A problem which has occasionally confronted Government and is likely to do so in the future, is how to get access to land for economic or productive purposes, which do not fall within the definition of a public purpose. The issue can be referred to the Colonial Office, which may or may not deem the purpose to be a public one. In all cases, it seems preferable that every attempt should be made to acquire the land by purchase or lease in the first instance. If all efforts fail, as they may well do, it seems preferable that the access to the land should be gained by special regulation, providing the Government with specific powers to acquire the land. Since in the Protectorate, the Secretary of State has powers of disallowance, his approval would still be necessary. Such a procedure, probably involving consultation with Advisory Council, would ensure wide publicity and avoid the suspicion which frequently attaches to any stretching of the definition of public purposes.

The Problem of the Establishment of Prescriptive Interests

49. During the past 30 years or so, Solomon Islanders have shown an increasing tendency to establish prescriptive interests in Public, Private and Leasehold land. In this they have been tacitly encouraged by both formal and informal administrative policy. Formal arrangements have been made whereby Solomon Islanders can work public lands planted with coconuts by permit to occupy under section 6 of the Land Regulation. These arrangements have not proved satisfactory and have recently been under review. Informal arrangements have been made in Honiara to enable local people to cultivate vacant public lands, but these are now being made the subject of formal permits which will prevent transfer, charge, sub-lease, the planting of permanent crops and/or creation of permanent buildings. The permit specifically provides that no compensation will be payable by Government. In the districts, however, ad hoc arrangements have been made with Solomon Islanders for the working of properties, while squatting without authority has been ignored. Since no titles have been issued, it would seem that over a period of years prescriptive interests are being steadily established.

50. This is quite unsatisfactory, and it is clearly desirable that the law should protect holders of property, when they are unable to protect themselves. Accordingly, it is recommended that legislation should be provided to prevent the establishment of any prescriptive interest in land, unless the interest has been established and exercised for 25 years. The normal term is usually 12 or 15 years but it is considered that since squatting has been practised for some considerable time now, it would be wise to extinguish those interests at present in the process of being established.

51. Consideration has been given to whether or not this should be limited to alienated land only. Since the Government has the right and duty to regulate the occupation of waste or vacant lands it is not thought appropriate that such a limitation should apply. It is therefore recommended that it should be applicable to all lands in the Protectorate, including native lands. Due and proper regard will have to be paid to the system of land utilisation for subsistence agriculture, hunting and gathering.

Natural Resources

52. In Part Two of this report, various recommendations were made regarding the desirability of exercising control over forests, coastal salt water swamps, reefs, rivers, waterways, streams, springs and their banks. The case for control has been made. It is a matter for consideration whether such matters should be dealt with by separate regulations, by omnibus natural resources legislation, or should be made the subject of a special reservation section of any new land regulation that is enacted. Obviously, forestry must be dealt with by separate regulation, while various departments will be actively concerned in other matters. In these circumstances, no firm recommendation is made, except that the principle should be accepted that effective control of the Protectorate's natural resources must be established by legislative measures.

The Land Code

53. While this report is being completed, the Commissioner of Lands is carrying out a review of alienated land policy and the administration of public lands generally. It therefore seems that the time is convenient to attempt to produce a unified land code applicable to all classes of land in the Protectorate. Some of the advantages in achieving this are as follows:-

- (a) Such an approach would serve to iron out a great many of the obscurities and conflicts between a whole series of scattered sections in different regulations, some of which, though repealed, still have continuing effect in respect of certain classes of land.
- (b) A land code is easier to amend.

- (c) Reference is facilitated and public confidence is thereby improved.
- (d) It is the normal basis for a modern land policy.
- (e) It would constitute an important step further towards the time when the disposition and transfer of all land in the Protectorate is governed solely by the registered private interests in the land guaranteed by law.

54. While a unified land code would greatly facilitate the implementation of policy, many legal and practical difficulties may stand in its way. It is therefore recommended that it should be accepted as a desirable objective and that it be kept in view when legislation is being prepared.

AGENCIES REQUIRED TO CARRY OUT THE

PROPOSED ARRANGEMENTS

The Protectorate is no exception to the principle that in most underdeveloped territories the Department of Lands is little more than a Department of Alienated and Urban Lands. The little administration of native lands that hitherto has occurred has been undertaken, on the one hand, by District Administration, which has few legal powers apart from the settlement of disputes, and on the other, by Local Government which, largely unaided, has at its disposal very considerable legal powers. Fortunately, to date these have scarcely been exercised. The bulk of the responsibility is left to the traditional land authorities and to "custom" - that mystical institution, so little understood but now so burdened with a whole series of new tensions, political, economic and social.

2. This situation must be remedied. Special agencies are necessary not only to execute the policy which has been recommended, but also to meet new requirements and developments which will most assuredly arise in the future. Those described below are, it is considered, the minimum which the situation demands, and which the financial position of the Protectorate can afford.

Central Government Agencies

3. Since land tenure involves a wide variety of considerations, not the least of which are fundamentally political and economic, it stands to reason that policy must be directed closely by Central Government. The chief adviser of Central Government on land matters is the Commissioner of Lands. To discharge his responsibilities adequately, his Department should be strengthened by the addition of a Land Tenure Officer who should be a member of the Administrative Service, preferably with knowledge of local conditions, but also with some experience of land tenure in another territory. A legal training would be an advantage, but is not essential. He should be an officer with seven to ten years experience, anxious to specialise in land tenure and active enough to spend the greater proportion of his time in the field. The value of previous experience is particularly stressed, since conditions are such at present that little difficulty should be encountered in finding such an officer.

4. The specific duties of the Land Tenure Officer would be as follows:-

- (a) to maintain the closest possible liaison between Central

Government and the local land committees (to which reference is made later in this chapter) by representing the principles of Central Government policy, and at the same time to be the means whereby local circumstances and opinion can be conveyed to Central Government;

- (b) to initiate generally the action which is necessary to execute Central Government's policy decisions;
- (c) to act as adjudication officer wherever it is convenient in such areas as adjudication is deemed to be necessary;
- (d) to advise and assist the staff of District Administration in the work of adjudication whenever it is necessary for such staff to undertake these duties;
- (e) to advise and assist Local Government in the drafting of resolutions relating to customary tenure;
- (f) to maintain the closest possible liaison with those technical services such as registration and survey which it will be necessary for the Department of Lands to provide;
- (g) to maintain liaison with such other departments and agencies which will be directly or indirectly concerned in the implementation of land policy;
- (h) to advise on the land tenure aspects of resettlement policy and to be responsible for its execution.

The Land Tenure Officer should act as Commissioner of Lands while the officer filling that post is on leave or is otherwise absent.

Technical Staff of the Lands Department

5. An increase in survey and registration staff will be necessary, but for the next five years or so, this should not have to exceed two European technical officers and the requisite local staff.

Solomon Island Land Trust Board

6. It is recommended that the Solomon Island Land Trust Board should be set up and charged with the responsibility for administering the following classes of land:-

- (a) Trust land as defined in the previous chapter.
- (b) Land for resettlement.
- (c) Native land which is to be leased.

(d) Public lands which are not urban lands or lands required or used for public purposes.

(e) Lands of historical, cultural or scientific significance.

7. The Board of Trustees, which should be a body corporate, with perpetual succession and a common seal, should consist of the following -

The High Commissioner, as Chairman;
The Commissioner of Lands;
The Land Tenure Officer; and
Two native members nominated by the High Commissioner

In the absence of the High Commissioner, the Commissioner of Lands will preside. The Department of Lands should be responsible for executing the decisions of the Board.

8. The funds of the Board should consist of such rents, fees, and stand premia, as the Board may acquire from the lease and development of those lands vested in its charge. Having regard to the not inconsiderable sums of money which, in the past, have disappeared into general revenue, and cannot be said to have been devoted to the development of Protectorate lands, it is recommended that the Board should be loaned or granted the sum of £A10,000 from current development funds to enable it to commence operations. The funds should be used for the following purposes:-

(a) The acquisition of lands held by Solomon Islanders and non-natives for the purposes of resettlement.

(b) The survey and development of trust lands.

(c) The economic development of all lands vested in the Board.

Local Land Committees

9. It is imperative in undertaking a positive land tenure policy, that Central Government should have the means, not only to represent its policy to the people in those areas where it is to be implemented, but also to be able to obtain direct advice as to current developments in land tenure, and reactions to its policy generally. Accordingly, in order to guide and interpret local opinion, it is recommended that Local Land Committees should be set up in all districts.

10. While, broadly, it is envisaged that such Committees should be established in each Council area, local circumstances may necessitate more localised arrangements. For example, on Malaita, the extent of economic development in Western Kwara'ae, To'obaita and Lau may be such in the immediate future that separate Local Land Committees may be required in each sub-district. In Roviana, on the other hand, no reason is apparent why a Committee should not be

constituted for the whole Council area. The constitution of such Committees will be dependent upon local requirements and circumstances. In the initial period, however, the greatest care must be taken to ensure that the Committees understand clearly the nature of their duties, and the precise scope of their work. It is quite likely that in certain areas, such as parts of Malaita, duties will be undertaken with considerable enthusiasm, though probably not unaccompanied by suspicion. In a few years it may be found that the Committees can be more broadly based or that their duties can be expanded. Government should not be reluctant or slow to meet the challenge. For this reason, the constitution and functions of the committees should be governed by rules under the enabling legislation.

11. The function of the Committees should be as follows:-

- (a) to interpret Government's land tenure policy to the people and represent their views to Central Government;
- (b) to propagate the principles of individual tenure, to recommend areas for adjudication and registration of title, and to assist in the execution of this work;
- (c) to advise the Land Trust Board whether or not native lands to be alienated are in fact under cultivation or required for the future support of the native owners;
- (d) to assist the Land Trust Board in the acquisition of lands for resettlement purposes, and to advise Government on resettlement land policy generally;
- (e) to keep land tenure developments and needs in the Committee area under constant review, particularly where custom is still changing and evolving, and to advise Government generally on these trends and such measures that are necessary to meet them. This would, of course, imply advising on resolutions proposed by Councils;
- (f) to keep the people in touch with developments in other Committee areas with a view to establishing a productive national land consciousness which will ultimately replace the present parochial consciousness.

12. The actual composition of the Committees will also have to meet varying circumstances. Broadly, however, they should include representatives of land authorities, progressive land users and producers, the local council, and if available, competent and respected local officers of technical Departments such as Agriculture, Forestry or Lands. In certain areas, the Committees will consist simply of members of the Council which could be relied on to nominate suitable men. In others, however, for various reasons the Council could not be left to provide a sufficiently broadly based Committee.

On balance, it seems desirable that at this stage such committees should be nominated rather than elected. The Committee should not exceed nine in number, although in some areas it will be possible to keep it as low as five. The District Commissioner should be Chairman of the Committee, but it may be desirable to have the leading Local Council leader as vice-chairman.

13. It may be suggested that the functions of the Committees could better be discharged by Local Government, and that their constitution will inevitably cause jealousy and confusion. While this might be the case on Malaita, and only just possibly so on Guadalcanar and San Cristobal, care in constitution, composition and handling should avoid it elsewhere. Even on Malaita, extra care to ensure that the Committees have the support of the Malaita Council could avoid these difficulties. It will not be easy, but every effort must be made to bring this about. The following are the reasons which the Commission considers are valid objections to allowing the Malaita or any other Council to undertake these functions:-

- (a) Land tenure is an issue of national importance involving the most vital private interests. Such interests are so fundamental that Central Government has a moral responsibility for their protection.
- (b) Land tenure is the basis of the whole future economic development and cannot be left to Local Government, which is ill equipped to deal with such matters.
- (c) The essential function of Local Government is the provision of local services, and land tenure is outside this field.
- (d) Certain authorities, notably the Malaita Council, have already shown a tendency towards irresponsibility in respect of certain private liberties, namely the right to work, and this must not be permitted to extend into the field of land tenure.
- (e) Councils being now almost wholly elected are becoming increasingly political, and do not necessarily represent either traditional land authorities or progressive land users.
- (f) The temptation to entrust complex problems to councils can become just as dangerous as the habit of leaving them to the vagaries of "custom".
- (g) Council concern in land tenure even on Malaita, has fortunately been slight. It is not too late to limit this concern.

14. In conclusion, it must be stressed that so great is the danger in allowing Local Government into the field of land tenure that if the objections outlined above are overruled, it would be

preferable for a new formula to be arrived at, perhaps on the basis of decentralisation of the Land Trust Board into four district boards which could be advisory to the Central body. This might cause considerable difficulties, since the Board would not be directly concerned with the essential purpose of the land committees, namely the propagation of the acceptance of individual tenure in local areas which are ready for it.

Finance

15. It is not possible to provide a firm estimate of the cost of all the recommendations, let alone of the indirect return which can be expected from improved economic development in the foreseeable future. For the next five years, however, it is estimated that proposed staff increases will cost in the vicinity of £A7,000 per annum, while the loss in revenue to the Land Trust Board will be of the order of £A3,000. A total cost of £A10,000, if borne from development funds or grant in aid, should be redeemed at the end of five years by increased revenue, resulting from improved security of tenure and the more productive use of land.

16. If nothing is done in consequence of these recommendations, or if, for financial considerations, they are so modified that policy still continues to favour Europeans and Chinese, to the exclusion of any regard for the economic future of Solomon Islanders, the cost in political difficulties and economic stalemate will greatly exceed the moderate cost of these proposals. Far worse than this, an opportunity will have been lost which may never recur again.

CONCLUSIONS

The thesis of this report can be briefly stated. In the beginning, Solomon Islanders were unaffected by alien tenure concepts because Europeans were not interested in permanent settlement. With the development of the copra industry, permanent settlement became necessary and land was purchased. At first, transactions in land were unregulated, but when the Protectorate was established, control was effected to prevent speculation and to provide much needed revenue. Early Government policy assumed that only European capital could develop these islands, because the Solomon Islanders were a dying race. As time went by, both principles were found to be false. Solomon Islanders slowly adjusted themselves to European influences, and started to participate actively in the cash economy. Gradually, they developed land consciousness which manifested itself in strong reaction against the alienation of coastal lands.

2. The customary tenure system, which appears to have been fluid when Europeans arrived, has adapted itself haphazardly to new social, political and economic needs. Social change has proceeded apace during the last 15 years. Signs of population increase offer hope for the future. Political events have provoked a gathering sense of purpose. Solomon Islanders are participating to an increasing extent in the cash economy. Although the law does not guarantee titles in land, legislative and administrative arrangements provide an element of security of tenure for non-native interests. If the urgent necessity for Solomon Islanders to increase cash crop production is to be met, legislative measures are necessary to enable producers to obtain as secure and negotiable a title in their lands as Europeans and Chinese.

3. This involves recognition that the customary tenure system should not be allowed to evolve without direction or purpose, that problems relating to it cannot be left to Local Government, that tendencies towards individual tenure should be encouraged, and that where conditions are ripe, adjudication and registration should proceed on the basis of the issue of individual titles. While natural resources should be preserved, they must also be developed to economic advantage. Lands, which adjudication show to be vacant of interests, should be vested in a Board of Trustees to ensure their future economic use and disposition in the best interests of the whole Protectorate. But the responsibility for the control and direction must remain with Central Government. Its policy should be executed with the assistance and co-operation of Local Land Committees, which should be the means of interpretation of both local opinion and feeling, and Central Government policy. By

recognising the urgency of the present problem, and by adopting measures along these lines, land consciousness, at present misdirected and wasteful of resources, can be put to productive economic use within the framework of present and future social and political development.

4. Now that the concluding paragraph of this report has been reached, concern is felt for its prolixity. But the laboriousness of the task and the complexity of the subject matter makes it doubtful whether it could have been treated in much less space. Allowing for lack of dexterity in presentation, at the very least, the facts recorded and the conclusions derived should provide a basis for discussion. At most, a coherent policy along some of the lines suggested might be given practical effect. What offers greater hope, is that it will provide the foundation for a practical and critical approach towards land tenure by Central Government, District Administration, Local Government, the Courts and professional departments, without which the present plans for future economic development will lack reality.

S U M M A R Y

CHAPTER I

GEOGRAPHICAL

The customary tenure system has been conditioned by factors of geography including topography, geology, soils, climate, forests, fauna, and communications.

CHAPTER II

THE PEOPLE

Although diversity of language and culture is very great, certain patterns have emerged which coincide broadly with one classification of the people into Polynesian, Western, Saltwater and Bush people.

2. Wide variations are to be found in the distribution of population, which now appears to be increasing.
3. Subsistence crops, cash crops and economic trees are cultivated by Solomon Islanders. In addition they hunt, fish, gather wild foods, raise stock and poultry, operate trading businesses.
4. The extension of Central and Local Government into wider fields of activity, including the provision of a variety of new services together with the expansion of European and Chinese commercial agencies have necessitated an increase in the numbers of Solomon Islanders, possessing varying degrees of skills, being employed as wage earners.
5. A demographic survey should be held in 1961 and if conditions are ripe this should be combined with an agricultural survey.
6. Steps should be taken to introduce a simple, unified, up to date and effective system of recording births, deaths and marriages. Basic registers to be maintained by Local Government should be opened with assistance from Central Government funds.
7. Although the European population has increased since before

the war, the proportion employed in agricultural enterprise, appears to be less. The European population is an unstable one.

8. In contrast, the Chinese population is a firm and stable one, has a considerable stake in the country and is anxious to expand. Recently a few have shown interest in agricultural enterprise.

9. Other Pacific Islanders are few. The most important element of this group are the Gilbertese settlers.

CHAPTER III

HISTORICAL CONSIDERATIONS

Early trading methods, the establishment of the missions, the emergence of the copra industry in its present form, "commodore justice" and British Imperial policy all combined to set the pattern of pre-protection settlement and land transactions which became the basis for later land policy.

2. With the establishment of the Protectorate, land policy was conditioned by the conviction that the Solomon Islanders were a dying race, that only white capital could develop the country, that speculation should be prevented and that the revenue should benefit from land transactions.

3. Pax Britannica, combined with an imperfectly designed and executed land policy, brought the people to the coasts, developed land consciousness and resulted in claims by Solomon Islanders to alienated lands. These were heard by the first Lands Commission 1919-1924.

4. The years between the wars saw the launching of indirect rule, the end of the short lived land boom and the collapse of the copra industry. Towards the end of the period, a start was made to improve basic services but both the depression and the economy limited progress. Land policy remained static.

5. The Pacific War caused the destruction of large areas of plantations and conditioned Solomon Islanders for the outbreak of post war political discontents.

6. In the post war period, political movements further stimulated land consciousness. Staff difficulties and the loss of records have hampered the Lands Department which has been concerned exclusively with alienated land policy. Native land

policy has been in suspension pending the completion of this Commission's enquiries, which were regarded as basic to the development of agricultural, mining and forestry policies.

CHAPTER IV

THE PRESENT NATURE OF LAND LAW

A brief outline is given of the present categories of land; attention is drawn to certain basic doubts; the need for careful legal analysis before new legislation is drafted is emphasised.

2. The suggestion is made that the advice of the constitutional legal advisers at the Colonial Office should be sought as to:-

- (a) a definition of the implications and limitations of the Crown's supreme title in the Protectorate;
- (b) a definition of the extent to which legislation can be enacted to control native land.

CHAPTER V

THE SOCIAL SYSTEM

The Protectorate can be divided into tribal communities each one speaking a common dialect, inhabiting a common area and exhibiting a certain homogeneity of culture and tradition.

2. Tribal communities can be further divided into clans, lineages and moieties; although their traditional significance is being lost they are still important in land tenure.

3. Totemism has largely died out and when used as evidence in land disputes should be treated with some reservation.

4. In all clans and lineages, two localised social groups can be isolated. These are the line and the land group. Primary interest holders belong to the former. Primary interest holders together with secondary interest holders comprise the latter.

5. The family is the basic social unit of the land group and the line. Members of the family have social obligations to their relatives; the discharge of these is dependent upon the nature of the relationship, residence, opportunism, the degree of breakdown in traditional obligations and religious differences.
6. The status of the individual in Solomon Islands society is still governed largely by kinship obligations; however changes are occurring as participation in the cash economy increases.
7. The Protectorate which is grant aided by the United Kingdom Treasury has not advanced its central political organisation beyond the stages of an Advisory council. A sense of national community is growing, but slowly.
8. District Administration carries the burden of political, economic and social development.
9. Local government and native courts which suffer normal growing pains are widely established throughout the Protectorate; through these institutions, Solomon Islanders are taking a steadily increasing interest in their own affairs.
10. The rights and obligations of citizenship which are implied in native custom, the law, public policy and administrative practice can be said to be related to the exercise of primary interests in land.
11. The primitive economic system has been overlaid by new needs wants and values; these are constantly changing as Solomon Islanders participate more and more in the cash economy. Trading, copra producing, shell gathering, boat building and wage earning are the principal direct means of participation; the income per capita is of the order of between £A7.10.0. and £A10 per annum.
12. The Mission societies play a prominent part in the life of the Protectorate. By giving more responsibility to Solomon Islanders some of the societies are moving towards the status of constituted churches.
13. The village mission teacher is usually prominent in political, social and economic affairs. Sectarian feeling in the past has been strong in land matters and it should not be discounted in the future.

CHAPTER VI

LAND TENURE INTERESTS OF THE LINE AND LAND GROUP

The line and the land group are the main land holding

units. Membership of each is dependent upon the holding of primary or secondary interests. The interests of every individual member are, however, different. Lines and land groups are generally autonomous within the social organisation, and should be encouraged to remain so. To aid identification the name of the land should be associated with the name of the line or land group.

2. Natural boundaries are extensively used. Land authorities should, however, be encouraged to see the advantages of straight line boundaries cleared of jungle. A simple, permanent and cheap boundary peg should be devised which the people can be encouraged to use in marking their lands.

3. In all land disputes, the Court should formally inspect the boundaries of the land with all parties concerned, before hearings commence.

4. Knowledge of sacred places tendered as evidence of primary interests should be treated with reservation; not only is fabrication possible, but the knowledge of the true significance of such places is dwindling.

5. Unilateral descent exists in almost all places in the Protectorate. Bilateral descent is found in New Georgia. The dangers of bilateral descent should be recognised, and early action taken to eliminate it in New Georgia; trends along such lines elsewhere should be counteracted.

6. Genealogies should continue to be recognised as evidence of land interests; they should be treated with critical reservation and their precise significance closely examined, when tendered as evidence.

7. Signs exist of a breakdown in the exogamy principle in matrilineal societies. This is accompanied by a desire in certain places to allow the rules of church and state to govern the forbidden degrees of marriage.

8. Payment of a bride price usually governs residence and in some cases "title" in children.

9. Normally, Solomon Islanders can exercise secondary interests in the lands of the wife's group.

10. Each line and land group has one or two authorities chosen by the members to look after and guard their interests. Such authorities are persons with primary interests in the land of the line and land group. While land authorities have certain functions and duties, their status is no more than that of primus inter pares.

11. With certain general and local limitations, women's interests are more similar to those of men in land, in matrilineal and bilateral

societies than in patrilineal societies. Women only exercise complete authority in land if they are sole survivors of a line. Although the burden of cultivation is now more equitably distributed, it cannot be expected that women will play a much greater part in land tenure, unless a women's cash crop is introduced. Spinsters and widows are generally well provided for.

12. Adoption is still common for various reasons. While normally, adopted children derive primary land interests from their adopting parents, this is not always the case. Local custom must always be examined. The status of "slaves" often closely approximated that of adoptees. Claims against persons descended from "slaves" should be examined with great care.

13. Absentees normally arrange for their land interests to be kept "alive" by a relative, a land authority or a member of their line or land group. Subject to certain limitations individuals or their descendants can theoretically resume their interests at any time. It would be wise wherever necessary, to encourage acceptance of the principle that such interests lapse after two generations unless the absentee and his descendants keep them alive.

14. Consent, permanent settlement and marriage within the land group are normal pre-requisites to migrating individuals or groups acquiring interests in land of other groups. Today however, land consciousness rather discourages migration.

15. While strangers are normally accorded hospitality they are discouraged from acquiring interests in land unless they wish to become permanent settlers.

16. Where recognised interests have been established long ago by migrating groups, these cannot be extinguished by claimants who "from time immemorial" (1893) have condoned the exercise of such interests. Conversely, care should be taken to ensure that such immigrant groups do not claim interests which they have never in fact acquired or maintain former interests which have been extinguished.

17. Migration or resettlement of large groups should normally be controlled by Central Government and should not be permitted unless groups can be integrated into the community into which they are being settled.

CHAPTER VII

SETTLEMENT LAND

Settlement or village lands are subject to primary and

secondary interest and in the case of the latter, the element of consent, either specific or implied, is invariably present.

2. In every village, the individual has certain specific rights and obligations in respect of the compound in which he resides. Consideration should be given to the problem of authority in settlements of average size and above. The extension of the village committee principle should be examined.

3. Having regard to problems of instability, an examination should be undertaken of the type of construction and materials used in housebuilding in the light of new needs and incentives and the changes which are going on in the customary system of reciprocal co-operation. Local Government should be invited to assume responsibility for approving new settlement sites.

4. Legislation should be enacted to provide for the definition of "village land" and the control thereof in order to prevent arbitrary eviction and to remove the principal deterrent to the formation of larger units.

5. Demands for rent or payment in respect of land required for village public facilities with direct local significance and sponsored by Central and Local Government agencies should be resisted; legislation should be enacted to provide for this.

6. Positive action should be taken to encourage Councils to purchase the land on which their headquarters are sited.

7. The policy of relating the grant of business licences to ownership of land should be reviewed in the light of the recommendations for the definition of village land.

8. A re-appraisal of urban policy is necessary. This should take account of the desirability of encouraging permanent settlement in the towns by Solomon Islanders.

CHAPTER VIII

TENURE OF RESOURCES

In pre-protection times, the individual or group who first cleared the virgin forest established a hereditary interest in the land, in return for the labour expended.

2. This principle still applies but controls have been introduced by land authorities particularly in respect of the clearing

of land for the cultivation of economic cash crop trees.

3. The people are developing an appreciation of the economic value of trees as sawn timber.
4. A few Solomon Islanders appreciate the relationship between the clearing of forests and soil erosion.
5. Legislation is urgently required to provide for the reservation and development of forests. The basis for a reservation policy is outlined.
6. The principle, that "owners" should be paid a regular proportion of any royalties or profits derived from the development of forests should be resisted; a proportion of the profits should however be paid to the Local Council in whose area the forest is being developed.
7. Secondary forest is subject to primary and secondary interests.
8. The gathering of forest produce by persons without such interests normally requires permission. With the exception of Malaita, such permission is seldom refused; on Malaita control over secondary forest is becoming increasingly rigid.
9. Solomon Islanders seldom cultivate grasslands; interests in such lands are based on clearing the land but since the grass quickly resumes, the basis of claim is largely hearsay and tradition.
10. Exclusive possession of economic trees exists mainly on an individual basis.
11. Primary interests in land and trees are frequently separately held.
12. While permission to plant economic trees in land, in which no primary interests are held, must be sought, it is normally granted except in the case of cash crop trees. This creates problems which must be tackled realistically but with patience and tact. Government policy should actively discourage the planting of economic trees in land in which no primary interests are held.
13. While minerals have no significance in the culture of Solomon Islanders, there is a vague but fixed belief that ownership of surface interests in land, includes all that lies below the surface. This is particularly apparent in Guadalcanar, Florida, Malaita and San Cristobal. Positive effect will not be given to this belief until the Crown exerts a visible act of ownership over minerals. If the Crown's position becomes impossible and all suggested measures have been tried and failed, a mining grant, proportioned between all Councils and paid from General Revenue might go some way to meet any political ill feeling which may develop.

14. Rules should be made under the Mining Regulation to provide for the adjudication of interests in land for which compensation is payable in respect of damage. Steps should be taken to ensure that irreparable damage is not done to agricultural land by mining operations.

15. Customary control is exerted over swamps; this is intensive in closely populated areas or where Europeans have exhibited interest in timber resources. The position in respect of land under swamp and mangrove forest below high water mark should be clarified by legislation.

16. Because the Protectorate generally enjoys an adequate rainfall, there is no intricate tenure of water interests, except where river fishing is involved.

17. Councils should give consideration to the desirability or otherwise of controlling pollution of rivers and streams.

18. Natural resources legislation should be enacted vesting the control of rivers, streams, waterways and springs in the Government.

19. While most mountains may not be subject to interests amounting to full ownership, they are in fact claimed by the people on the basis of a tradition of past habitation and cultural significance. Regard should be paid to such concepts.

20. Due to high prices for trochus shell there is at present an acute consciousness of interests in reefs. The law in respect of reefs is as stated in Mr. Judicial Commissioner Charles' judgment, which briefly is that "every person has the right to fish anywhere within the territorial waters of the Protectorate except where the right to fish has been restricted by any enacted law or where the natives have an exclusive right of fishing under a native custom which has existed from before 1893, which has been continuously observed since its origin, which is certain in its principle and application and which was reasonable at the time of its inception." The judgment in this case should be translated into formal legislation vesting the Government with control in reefs and providing for licences to be issued to such persons who establish under native custom an exclusive possession of specific interests in particular reefs.

21. While no customary basis exists on which land holders can prevent public road construction, care should always be taken to obtain the consent of the land authorities.

22. While hunting generally is governed by certain rules including respect for customary prohibitions, these are little more than what good manners expect; the tendency of land authorities to apply restrictions is noticeable.

23. Livestock is individually owned. Pigs have extensive significance in the traditional culture and their control arouses much feeling. Solomon Islanders are developing interest in cattle, which must be fenced. Grazing of cattle necessitates permanent improvements to the land and encourages the emergence of individual tenure.

24. In Savo, megapode birds are highly domesticated and the fields in which the eggs are laid are closely subdivided and individually owned.

CHAPTER IX

TRANSFER OF INTERESTS

Customary inheritance is undergoing considerable changes, particularly in matrilineal societies.

2. While there is no urgency, Councils should be encouraged to resolve on the principles which govern inheritance where no customary disposition has been made, providing certain conditions are met and the implications are fully appreciated.

3. Native land is not disposable by formal will and this fact should be given wide publicity. Land for which titles are issued should however be disposable by will.

4. Throughout the Protectorate, customary transfer in respect of debt, services, and compensation has a firm basis in custom, but wide variations occur from place to place.

5. While the provision of mortuary feasts is an important aspect of custom in respect of the dead, in Guadalcanar it is causing abuse of land interests and the Council should be invited to examine the position.

6. Claims are frequently made to redeem transfers of land occurring after 1893 in respect of repugnant custom. It is considered that where exercise of possession has been long, continuous and undisturbed, no such claim can be substantiated but the matter should be referred to the Law Officers for guidance.

7. It is now virtually impossible to determine for certain whether or not customary sale occurred in pre-European times. Though customary sale is not widespread, cases do occur from time to time in different islands. This appears to be due either to pressure of population or the demand for coastal lands. Customary

sale will probably disappear in time and be replaced by cash sale. In the meantime such transactions should be regarded as being governed by native custom.

8. Some Solomon Islanders are selling native land for cash. It is desirable to encourage such transfers since they will lead to the more productive use of land. Control should, however, be effected.

9. "Gifts" of land interests imply obligations by the recipients to the donors; care should be taken to avoid the confusions which attend on use of the word "gift".

10. Guardianship of land interests implies trust and personal use but does not permit the assumption of proprietary rights by the guardian. Interests are loaned, but this is less common in individualistic societies like Choiseul than in closely knit groups like Tikopia.

11. There is no customary basis for the European form of lease, but it is possible that in time the principle might be widely applied.

12. Present legislation and lack of negotiable security prevents access by Solomon Islanders to sound credit facilities. This can be remedied in some measure by simple amendment to the present legislation, but it is essential that Solomon Islanders should be able to obtain an indefeasible and negotiable title in the land which they develop.

13. The provision of credit facilities must be dependent upon the capacity of Government and the loan agencies to undertake adequate supervision.

CHAPTER X

SUBSISTENCE AGRICULTURE

Taro and yam together with sweet potatoes are the main staples, with cassava, sugar cane, bananas, and various forms of native cabbage as subsidiaries. Various introduced fruits and vegetables are grown in small quantities.

2. With certain exceptions, the cultivating unit is the family. The exceptions include central, southern and south-eastern areas of Guadalcanar, which traditionally have cultivated the yam on a group basis, and parts of Malaita and San Cristobal

where, for economic or political reasons, the people co-operate to produce both cash and subsistence crops.

3. The nature of the cash economy in which Solomon Islanders participate, together with the prodigality of land, climate and nature, have discouraged subsistence agriculture from advancing past the fire, axe, knife and digging stick stage.

4. The siting of cultivations is related to land tenure as well as ecological factors.

5. The need to travel considerable distances to cultivate is being questioned by some Solomon Islanders.

6. Food crops are disposed of by:-

- (a) normal daily consumption,
- (b) by feasting and meeting reciprocal obligations,
- (c) preservation for consumption,
- (d) preservation for replanting,
- (e) by barter, sale and feeding of labour.

7. Customary prohibitions are placed on cultivations for material and supernatural reasons. Persons who are ritually unclean may not enter the cultivations of pagans.

8. Though the Missions have attempted to canalise magico/religious beliefs and practices into Christian forms, this has not been entirely successful. A wide variety of pagan beliefs and practices is still used by Christians and pagans alike to aid the cultivation of food crops. Such beliefs and practices will act as a conservative force in the evolution of a modern agricultural land policy, but should not be treated over seriously.

9. All societies pursue foraging, though some more than others.

10. Shifting agriculture is rare and is confined to certain societies far inland.

11. Most coastal societies pursue agriculture with bush fallowing rotation or semi-sedentary agriculture with fallow. Semi-sedentary agriculture with artificial fertilising of the soil is rare.

12. On the basis of the measurements of 873 gardens, the average area per capita under cultivation is 2/5ths acre. Allowing for land under coconuts it is estimated that the present population cultivates 10 per cent of the unalienated lands.

13. With one or two exceptions, Solomon Islanders have little concept of the need for land or soil conservation. With changes going on in the customary tenure system and subsistence agriculture together with the possibility of increase in population over the next

generation, a case exists for the provision of land and soil conservation legislation.

CHAPTER XI

DISPUTES

Certain sociological circumstances create the background to land disputes but human failings normally precipitate them.

2. Disputes can be categorised into classes depending upon the issues involved.
3. No reliable statistics of the number of disputes occurring are available but incidence appears to be greatest in Choiseul, Malaita, Santa Ana and the Reef Islands. The position does not warrant the appointment of a special Commissioner with powers to clear up outstanding disputes. District Commissioners should in future be required to provide statistics relating to the incidence of disputes in quarterly reports.
4. The present arrangements for hearing land disputes are unsatisfactory; having considered all alternatives, the Commission recommends that a Native Land Court consisting of the Judicial Commissioner, deputy commissioners, and members of the Native Courts should be set up under special legislation to hear native land disputes only. The Court should function in terms of special rules and lawyers should be excluded.
5. District Commissioners should familiarise themselves with the claims settled by the first Lands Commission in their districts. Without prejudice to the requirements of future public policy, the present Commission has found no justification for the demand that any of the claims should be reheard.
6. The legislators never intended that judgments should be registered in actions between Solomon Islanders in respect of native land to which an ill-defined customary title attaches. The present legislation should be amended with retrospective effect to make this clear.
7. Native land for which titles are eventually issued is in quite a different category. The legislation governing entitled native land should specify the arrangements for the registration of judgments by the Courts delivered in respect of such land.

MISCELLANEOUS LAND TENURE MATTERS

The powers of Councils to pass resolutions in respect of native land are both too wide and too vague. Apart from the Malaita Council which has shown extensive interest and concern in land matters, few Councils have used these powers.

2. The regulation, control and allocation of native lands are more properly the field of Central Government.

3. Councils should be restricted to passing resolutions defining native custom in respect of interests in land and in particular, controlling undesirable customary tendencies.

4. Accession should not be given to any demand from Councils to be consulted before land is alienated. Provision should however be included in the present legislation for land to be leased by the High Commissioner or his appointed representative on the recommendation of the District Commissioner, who should be empowered specifically to consult the proposed local land committees.

5. Throughout the Protectorate, competition for coastal lands had led to a variety of problems, the most important of which is excessive claims made to such lands.

6. Europeans holding such lands, many of which are not being developed appear to the Solomon Islander to be in a specially favoured position.

7. Original discovery, together with uninterrupted possession, providing the interests have been fully exercised for a generation or more, appear to constitute the best possible grounds on which a claim to coastal lands can be substantiated. Such issues are however for the Courts or a formal process of adjudication to decide.

8. Although no serious landlord-tenant problem exists at present among Solomon Islanders signs of incipient development necessitate a close watch being kept on the position.

9. Between Solomon Islanders and Europeans, the most tangible form of the problem is share cropping. Because permanent settlement is never contemplated, this tends to be more of a labour problem. At present, share cropping is declining.

10. Multiple ownership can lead to fragmentation, only if subdivision occurs on the ground. Progressive individuals who have embraced the cash economy, consciously and unconsciously resent

and even reject the principle of multiple ownership. There is however no widespread or general demand for subdivision. Multiple ownership can prevent agreement as to effective use of land and lead to ludicrous entries in a Register, besides atomising rentals.

11. At present, there is no general fragmentation problem in the Protectorate. If the population increases rapidly in certain islands, such as the Reefs, and further subdivision occurred, fragmentation might develop.

12. Fragmentation could develop on public lands set aside for resettlement if early administrative measures are not taken to avoid it. To prevent fragmentation on small areas of public land leased to individuals, a clause inserted in the lease should limit co-owners to a small number, say, three, four or five.

13. Resettlement should be treated as a long range plan and worked out by detailed population and agricultural surveys carried out over the next five years. Land for resettlement should be surveyed to determine its precise capacity.

14. There is a close inter-relationship between land tenure and post-war cults and political movements which may prove to have long lasting ill effects on the attitudes of Solomon Islanders towards land.

15. While it is hoped that the formulation of a native land policy will go far towards meeting these ill effects, no opportunity should be lost to correct misapprehension of fact or to counteract undesirable trends and beliefs.

16. The staff of District Administration must be kept closely in touch with the formulation of policy and new developments, particularly in districts other than their own.

17. Solomon Islanders value land in social, political and economic terms all of which are inextricably inter-related. It is unlikely that economic values can be measured in terms of the primitive economy but indications exist that land is now being valued in terms of the cash economy which is imperfectly understood. In consequence of this the value placed on land is being increased and measures should be taken through local land committees to prevent the development of inflatory ideas.

CHAPTER XIII

CIRCUMSTANCES AFFECTING THE PROBLEM

The nature of customary ownership has not received the

direct attention of the Courts. A definition based upon continuous exercise of interests is attempted and this is related to the kind of lands over which customary ownership is normally exercised.

2. Too much is ascribed to and expected of native custom, which can no longer be taken for granted. While it still has an important part to play, the time has gone when land tenure can be left to the vagaries of custom let alone its chance evolution.

3. Government policy should encourage the emergence of individual tenure in those areas where conditions are ripe for it.

4. Overall proposals should have regard to the Protectorate's limited financial resources but must also recognise that Solomon Islanders will play an increasingly greater part in economic expansion.

5. To avoid racial feeling becoming further involved with land tenure, it must be recognised that Solomon Islanders should be able to obtain as good a title in their lands as other races.

6. The obscurity and inadequacy of the present legislation makes for insecurity of tenure among all races and peoples. Amendments should not be effected. The whole legislation should be scrapped and new legislation enacted which represents a unified policy.

7. The lack of basic facts and statistics is a severe handicap in land reform. Although much time is spent in compiling statistics, lack of co-ordination in collection, collation and maintenance results in dissipation of effort and wastage of results. This should be remedied.

8. Physical and human factors necessitate legislation which facilitates rather than compels.

CHAPTER XIV

PROPOSED LEGISLATIVE ARRANGEMENTS

The basic object should be to devise a policy which takes into account the present continuing need for the customary system but which at the same time guides it along progressive lines towards the emergence of a modern tenure system based on adjudication and registration of individual title.

2. The four main elements in the provision of titles are as

follows:-

- (a) legal right to issue titles,
 - (b) adjudication of existing interests,
 - (c) registration of interests adjudicated,
 - (d) survey and relation of registration to cadastral plans.
3. Adjudication and registration should only be carried out where conditions are ripe for it.
4. Adjudication and registration are also dependant upon (a) a reasonable measure of support from a substantial proportion of the persons concerned; (b) staff and organisation being available, (c) survey facilities being available, and (d) the complexity of the problem being fully appreciated.
5. By repealing the Waste Lands Regulation it does not appear that the Crown has in any way abdicated its right to regulate and control the occupation of waste lands.
6. Lands which adjudication show to be vacant of interests should be registered as Trust Lands and vested in a Land Trust Board with perpetual succession.
7. Land for resettlement purposes should be administered by the Land Trust Board.
8. The alienation of native land should be vested in the Land Trust Board.
9. Ten per cent of native lease rentals should be payable to the Local Council of the district or sub-district in which the land is situated.
10. All rural public land not at present used or required for public purposes but which is leased or available for lease should be vested in the control of the Land Trust Board in order to answer criticism and maintain consistency of policy.
11. Native reserve land is a category brought into existence by the previous Land Commission and the Courts. Such land should be subjected to adjudication in the normal way.
12. Land which has historical, cultural or scientific significance should be controlled by the Land Trust Board.
13. The provisions of section 30 of Cap. 49 should be repealed and provision made for the acquisition of village land for public purposes other than that of direct local significance on payment of proper compensation.
14. The principles in respect of assessment of compensation for

lands acquired for public purposes should be applied at the time that notification to acquire is made.

15. Access to land for economic or productive purposes, should be secured by special legislation if negotiation fails.

16. Legislation should be provided to limit the period for the establishment of prescriptive interest in land to 25 years.

17. Effective control of all the Protectorate's natural resources should be established by legislative measures.

18. A unified land code should be accepted as a desirable objective of policy to be kept in view when new legislation is being prepared.

CHAPTER XV

THE AGENCIES REQUIRED TO CARRY OUT THE PROPOSED ARRANGEMENTS

The Lands Department should be strengthened by the addition of a land tenure office to maintain close liaison with the local land committees, to act wherever is convenient as adjudication officer, to advise and execute policy in respect of resettlement lands, and to assist Government generally on all matters relating to Land Tenure.

2. Technical staff of the Lands Department will have to be increased by two over the next five years or so.

3. The Solomon Islands Land Trust Board should be set up to administer:-

- (i) trust lands,
- (ii) lands for resettlement,
- (iii) native lands to be leased,
- (iv) public lands which are not urban lands and not required for public purposes,
- (v) lands of historical, cultural or scientific significance.

4. To assist in the implementation of the new policy, local land committees should be set up which generally should correspond to Council or sub-district areas. The Committees should be the medium whereby local circumstances and opinions can be conveyed to Central

Government and policy generally can be represented to the people.

5. The total cost of the proposals over the next five years will be of the order of £A10,000 per annum.

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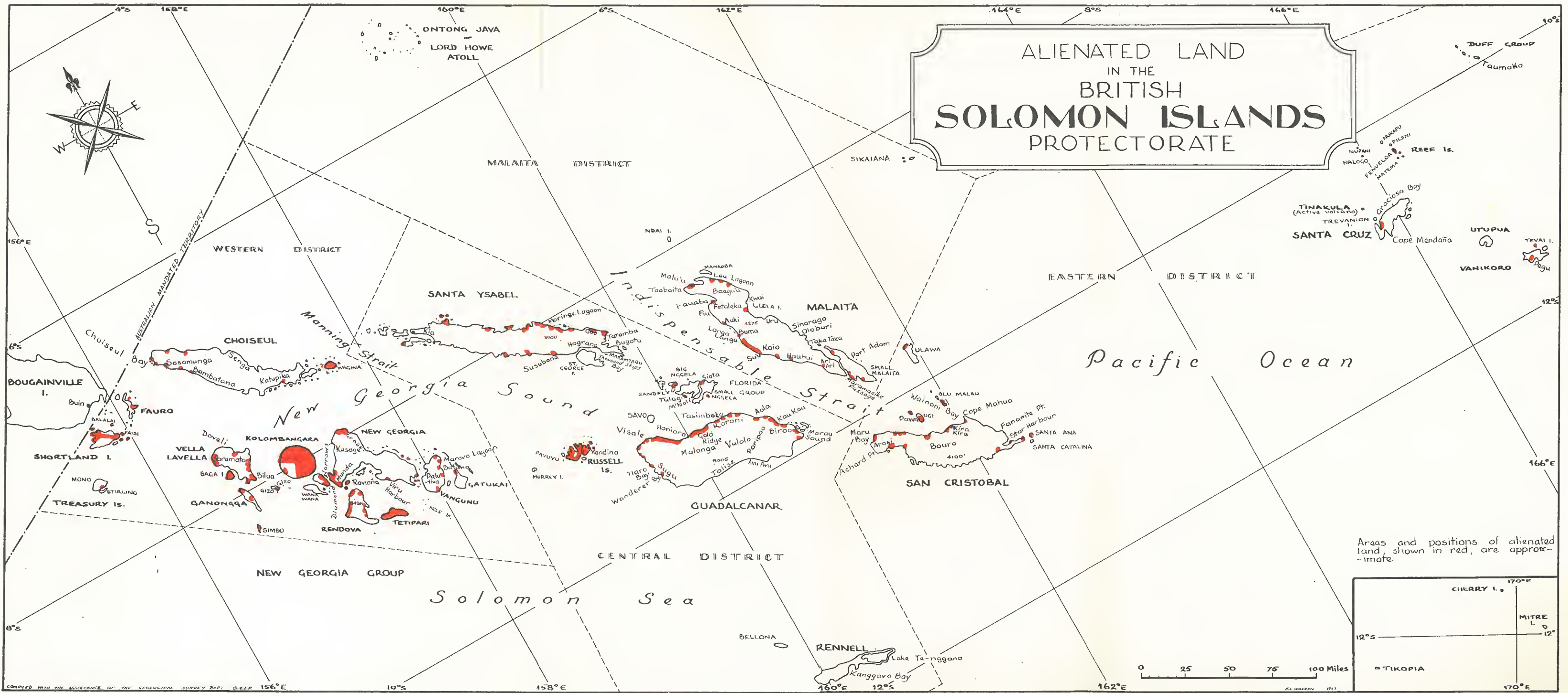
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